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Canada, Capital and Corporal  
Punishment and Lotteries, Joint  
Committee of the Senate and the  
House of Commons, 1953-54

FIRST SESSION—TWENTY-SECOND PARLIAMENT  
1953-54



Joint Committee of the Senate and the House of Commons

ON

# CAPITAL AND CORPORAL PUNISHMENT AND LOTTERIES

*Joint Chairmen:*—The Honourable Senator Salter A. Hayden  
and  
Mr. Don F. Brown, M.P.

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MINUTES OF PROCEEDINGS AND EVIDENCE

No. 7

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TUESDAY, MARCH 30, 1954

WEDNESDAY, MARCH 31, 1954

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WITNESSES:

Dr. Dorothy E. Long, Dominion Board Secretary of Christian Citizenship, and Mrs. Roland Garrett, Past President of Ottawa Presbyterial, both of The Woman's Missionary Society of The United Church of Canada; The Reverend Fred N. Poulton, Secretary, and The Reverend Canon W. W. Judd, General Secretary of Department of Christian Social Service of The Church of England in Canada, both of The Christian Social Council of Canada, Department of Social Relations of The Canadian Council of Churches; and Mr. William B. Common, Q.C., Director of Public Prosecutions, Ontario Attorney-General's Department.

*Appendix:* Brief opposed to Lotteries of The Church of England in Canada.

EDMOND CLOUTIER, C.M.G., O.A., D.S.P.  
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY  
OTTAWA, 1954.

APR 15 1954  
UNIVERSITY OF TORONTO

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*(Joint Chairman)*

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Mr. Hector Dupuis

Mr. Ross Thatcher

Mr. F. T. Fairey

Mr. Phillippe Valois

Mr. E. D. Fulton

Mr. H. E. Winch

Hon. Stuart S. Garson

A. Small,  
*Clerk of the Committee.*



## MINUTES OF PROCEEDINGS

TUESDAY, March 30, 1954.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 11.00 a.m. The Joint Chairman, the Honourable Senator Hayden, presided.

### *Present:*

*The Senate:* The Honourable Senators: Aseltine, Fergusson, Hayden, Hodges, and Veniot.—(5)

*The House of Commons:* Messrs. Boisvert, Brown (*Essex West*), Cameron (*High Park*), Fairey, Garson, Lusby, Shaw, Shipley (Mrs.), Thatcher, Valois, and Winch.—(11)

### *In attendance:*

*Representing The Woman's Missionary Society of the United Church of Canada:*

Mrs. Dorothy E. Long, Ph.D., Dominion Board Secretary of Christian Citizenship;

Mrs. Roland Garrett, Past President, Ottawa Presbyterian;

Mrs. E. G. Holtby, First Vice-President, Montreal and Ottawa Conference Branch;

Mrs. Gordon Law, Corresponding Secretary, Montreal and Ottawa Conference Branch; and

Mrs. A. O. Lloyd, First Vice-President, Ottawa Presbyterian.

*Representing The Christian Social Council of Canada, Department of Social Relations of The Canadian Council of Churches:*

The Reverend Fred. N. Poulton, Secretary; The Reverend Canon W. W. Judd, General Secretary, Department of Christian Social Service of The Church of England in Canada; The Reverend H. E. Wintemute, President; The Reverend F. W. L. Brailey, Board of Evangelism and Social Service of The United Church of Canada; and The Reverend Professor Allan L. Farris, Secretary, Board of Evangelism and Social Action of The Presbyterian Church in Canada.

*Counsel to the Committee:* Mr. D. G. Blair.

In accordance with the procedure respecting briefs adopted by the Committee on March 2, the Presiding Chairman informed the delegates from both organizations that they need only make supplementary statements, following which they would be questioned.

The Presiding Chairman introduced the delegation from The Woman's Missionary Society of the United Church of Canada.

Dr. Long and Mrs. Garrett were called, presented a brief opposing lotteries on behalf of their Society (which was taken as read), made supplementary statements thereto, and were questioned thereon.

On behalf of the Committee, the Presiding Chairman thanked the delegation from the Woman's Missionary Society of The United Church of Canada for its presentation.

The witnesses retired.



The Presiding Chairman introduced the delegation from The Christian Social Council of Canada, Department of Social Relations of The Canadian Council of Churches.

The Reverend Poulton was called, presented a brief opposing lotteries on behalf of his Council (which was taken as read), made a supplementary statement thereto, and was being questioned thereon.

The Reverend Canon Judd was called, presented a brief opposing lotteries on behalf of the Department of Christian Social Service of The Church of England in Canada (*see Appendix*), and made a supplementary statement thereto.

Questioning of the witnesses was resumed and completed.

On behalf of the Committee, the Presiding Chairman thanked the delegation from The Canadian Council of Churches for its presentations.

The witnesses retired.

At 1.00 p.m., the Committee adjourned to meet again at 4.00 p.m., Wednesday, March 31, 1954.

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WEDNESDAY, March 31, 1954.

The Joint Committee of the Senate and the House of Commons on Capital and Corporal Punishment and Lotteries met at 4.00 p.m. The Joint Chairman, Mr. Don. F. Brown, presided.

*Present:*

*The Senate:* The Honourable Senators Aseltine, Fergusson, Hayden, Hodges, McDonald, Roebuck, and Veniot.—(7)

*The House of Commons:* Messrs. Boisvert, Brown (*Essex West*), Cameron (*High Park*), Dupuis, Shaw, Shipley (Mrs.), Valois, and Winch.—(8)

*In attendance:* Mr. William B. Common, Q.C., Director of Public Prosecutions, Ontario Attorney-General's Department; Mr. D. G. Blair, Counsel to the Committee.

Mr. Common was recalled, made his presentation on the question of Lotteries and was questioned thereon.

The witness also made a supplementary statement relating to the evidence given by Mr. Arthur Maloney, Q.C., on March 16, 1954, respecting the administration of criminal justice in Canada.

On behalf of the Committee, the Presiding Chairman thanked the witness for his presentations.

The witness retired.

At 5.40 p.m., the Committee adjourned to meet again at 11.00 a.m., Tuesday, April 6, 1954.

A. SMALL,  
Clerk of the Committee.



## EVIDENCE

TUESDAY March 30, 1954,  
11.00 A.M.

The PRESIDING CHAIRMAN: (Hon. Senator Hayden), Ladies and gentlemen, we have a quorum. We have some delegates here this morning who wish to present briefs. There is the delegation from the Woman's Missionary Society, United Church of Canada, and I suggest, subject to your wishes, that we hear them first. I understand Dr. Long, and Mrs. Garrett are going to present the brief on behalf of their organization. I might tell you also that there are several other representatives in the delegation: Mrs. Holtby, president, and Mrs. Gordon Law of the Ottawa Branch, and Mrs. Lloyd, first vice president of the Ottawa Presbyterial. I would ask Dr. Long and Mrs. Garrett if they would come up here.

Dr. Dorothy E. Long, Dominion Board Secretary of Christian Citizenship, of the Woman's Missionary Society of The United Church of Canada, called:

### BRIEF ON LOTTERIES

*The Woman's Missionary Society of the United Church of Canada  
March, 1954*

#### *Preamble*

Whereas a joint committee of both houses of parliament has been appointed to inquire into and report upon the question whether the criminal law of Canada relative to lotteries should be amended in any respect; and

Whereas it is the long-standing and considered view of the Woman's Missionary Society of The United Church of Canada that the law relative to lotteries should not be relaxed but rather should be made more restrictive;

The Dominion Board of the Woman's Missionary Society of The United Church of Canada at its regular Executive meeting on January 28, 1954, authorized the preparation of a Brief setting forth in summary form its position on the legalization of lotteries.

#### *The Woman's Missionary Society Represents a Cross-Section of the Canadian People*

Citizens in a free country like Canada are very fortunate that they may express their views without restraint to the committees of parliament. The Woman's Missionary Society appreciates the opportunity to voice its concern lest pressure be brought to bear upon Canadian law-makers to relax the high standard that has been set for this country in matters that affect both the economic and moral life of the people. The Dominion Board of the Woman's Missionary Society feels a sense of responsibility to its own extensive constituency to make plain its position while expressing its gratitude for being accorded a hearing. Some associations of Canadian citizens know life only in Canada; some have knowledge of world affairs; the Woman's Missionary Society knows life both at home and abroad for it employs 112 missionaries



overseas and 151 in Canada. Moreover, through its wide membership of 90,415 adult members in 3,264 local Auxiliaries, and 170,000 members in affiliated adult and youth groups, it has a unique opportunity to contact people in every type of community and home in every part of Canada.

Further, this strong organization reaches into the small hamlet as well as the large city. The last annual report shows how varied and extended is the membership. It includes the tiny Auxiliary like Beaverlodge in the Peace River with a membership of eight, and large Auxiliaries in the cities of eastern and western Canada with membership ranging from 100 to over 400. Its nine-point purpose is summed up in the final clause of the "Aim and Object" set forth in the attached Membership Card: "To build up a fellowship committed to the doing of God's will and to the extension of God's Kingdom in the home and the community, in Canada and throughout the world."

This "Aim and Object" contains the reasons for our concern about the gambling issue. As women of the Church we seek to be aware of those issues that further or hinder the cause of Christianity; we have a sense of responsibility for the welfare of the youth of Canada; we appreciate the vital worth of sound home and community life in the country's economy; we have practised for more than 70 years the "stewardship of possessions" to raise funds in order that we might bring "healing and education to those in need" and the Gospel of Jesus Christ to our world. Evidence of our Society's sincerity and concern for life at home and abroad is its million dollar budget raised through the offerings of its members.

#### *The Woman's Missionary Society Policy Regarding Gambling*

Our policy has been consistent over the years. Taking the past decade, we find the Dominion Board called upon its members in May, 1945 "to refrain from any form of gambling and lottery no matter how worthy may be the objective" (Annual Report, 1944-45, pg. 297); in 1951 we put our Society on record as "being opposed to gambling in all forms" and urged our members "to take no part in games of chance" and not to lend their names as patrons to organizations which carried on "gambling in any form." The present action of the Dominion Board of the Woman's Missionary Society is in accord with a Resolution passed at the last annual meeting, May, 1953:

"Whereas we believe that to legalize gambling to any degree is to encourage it with its attendant evils; and

"Whereas 'lotteries are bad economics'; and

"Whereas 'anything that interferes with the full development of human personality or damage it, is a concern of the Church';

"Resolved: That the Federal Government be petitioned to reduce drastically all legalized gambling projects such as hospital sweepstakes, bingo games, slot machines, etc., with full enforcement of the law, and that our members be urged to accept personal responsibility in the matter of example."

This action placed our organization in support of the policy adopted by the Canadian Council of Churches and in accord with the Resolutions passed by the United Church General Councils in 1940 and 1944, but the action of our Board was taken independently.

#### *Why we oppose legalized gambling*

Why are we opposed to legalized gambling? The answers are many, but may be summarized under three main heads: (1) concern for wholesome charitable enterprises; (2) concern for wholesome family life; (3) concern for sound development of human personality. On all three counts we believe gambling in its usual large-scale forms to be especially pernicious and damaging to the life of our nation.



You will notice that the Woman's Missionary Society has not favoured even the permissive clauses in Sec. 236 of the Criminal Code (236 6b), and this not because of any self-righteous attitude but for two valid reasons: we believe in sound consistent financing of charitable enterprises, and we do not believe in the principle "the end justifies the means".

#### *Lotteries and financing of charities*

Our experience in the field of charity financing is long and consistent. We shall not take your valuable time to discuss it in detail, but simply state that from its beginning our Society has adopted a policy for fund raising and systematic giving for a definite purpose which has proved successful. So today when our members give sacrificially through their Society, they are giving in support of definite activities carried on by their 263 appointees in Canada and overseas.

Charity financing needs consistent and consecrated support if it is to be maintained over a long period of time at a high level of efficiency. To us it does not seem wise to finance our enterprise on the level of gambling—calling upon public support in return for the chance to make money. An appeal to aid others on the grounds of personal amusement and the cupidity of the "donor" defeats its own ends. We believe gambling is wrong for any purpose; we also deem it inexpedient as a means of raising charitable funds. To those who claim that raffles, lotteries, and other chance schemes are needed for charity we would say that gambling is too expensive a price to pay in the long run. The net returns are low for charity. The classic example is perhaps the Irish Hospital Sweepstakes with its 12½ per cent returns for actual hospital work. We can speak from the experience of many years, with a far-flung enterprise in Africa, India, Trinidad, Japan, Korea, China and Canada. You can raise a million dollar budget consistently by appeals to the love of adventure and shared service in a definite program of Christian witness.

#### *Gambling as an economic hazard*

We do not believe that the "end justifies the means". We can agree that gambling as amusement has pleasurable excitement for many people, and in many individual forms seems innocent diversion. For many, an annual fling at the races is just recreation; chance and skill go hand-in-hand with many of our children's games; it would be a surprise to many Canadians to discover "whist drives" were illegal under British gambling laws. Admitting all this and at the risk of "sob-sister" reasoning, we still maintain that legalized gambling is a dubious business for the state to approve.

The one form of legalized gambling that the Criminal Code permits (apart from the permissive charity clauses) in Canada is on-track horse race betting. The *Globe and Mail* of Toronto reported on November 10, 1953, that race track fans bet \$50,000,916 to create an Ontario record. The pari-mutuel betting on races across Canada in 1953 for 2,916 races on 376 days showed \$77,796,588 wagered and prize money totalling \$3,915,012.50. The off-track illegal betting could not be computed. It seems generally agreed that to extend legality to lotteries would be to put an additional tax on the people which represents a heavy drain on family finances. Race track gambling already drains off unproductive wealth; extending facilities for gambling seems of dubious social value when many families are hit now by increased unemployment.

As the housekeepers and shoppers of the nation, Canadian women know that family income can only be stretched so far. They know that rent and taxes and other items that seem in the "uncontrollable" column in their family budgets leave all too little for food, clothing, education and recreation, apart



from the desire of the family to "tithe" or otherwise apportion a suitable share of the income for services to God and mankind. What would go into lotteries, if they should be legalized, would constitute a further reduction in funds to meet the family requirements. The total cannot be proved, but there have been rumours of reduced family purchases of bread and milk during race meets in the neighbourhood. We believe in training our children in the stewardship of wealth. It is setting a bad example to youth for adults to suggest the extension of legalized gambling in a form clearly visible to youth (even if hedged about with provisos for their nonparticipation); or for our political leaders to suggest the state should subsidize hospitals and other essential services by lotteries which constitutes a "tax" appealing to the cupidity and selfishness of citizens. It has been found that legalized lotteries for hospital purposes form a tax upon those least able to bear even a small additional burden, offering great gain to a few and nothing to the many. Apart from the moral question of the appeal by the state to the greedy love of chance, there is the further disadvantage of this method of public finance working to the disadvantage of the institutions supposedly benefited. So we have seen opposition to this kind of "public support" from the Canadian Hospital Council, and from the British Hospital Association.

#### *Gambling as a moral issue*

If gambling for the many is unrewarding in itself and the money diverted into gambling channels is liable to come from the necessities of the family, it might be argued that this is a matter of regret for the people concerned directly, but not of great moment for the whole community. This was the attitude of the British Royal Commission which held the view that while there were "many amusements which, if they took the place of gambling, would leave the gambler both a happier and better man" and felt that "no sensible man could but wish that gambling played a less prominent part in the life of this country than it does", yet concluded that it would only aim at the "imposition of such restrictions as are desirable and practical to discourage or prevent excess". Against this *laissez faire* conclusion could be set its own agreement with part of the British Churches' contention that gambling *per se* was pernicious! "We would agree that many of those who gamble are attracted by the possibility of acquiring easy money, and that there will be deterioration in the character of the man whose addiction to gambling has distorted his proper sense of values."

The annual turnover in all forms of gambling the British Commission estimated at 650 million pounds, or 1.8 billion dollars, which represented  $\frac{1}{2}$  of 1 per cent of national income or 1 per cent of national resources. In the United States the annual turnover was estimated at about \$20,000,000,000 which the Kefauver Committee did not shrug off as comparatively harmless, in its Report on Organized Crime, nor was it lightly dismissed by a recent American writer who claimed that gambling had become a problem of such moment for his nation as to rank with foreign policy and domestic tax questions.

Where does Canada stand in relation to England and the United States? For us is gambling a real cause of individual and national deterioration? If so, we must limit its influence by education, by moral sanction, and by refusing to condone infractions of the laws which try to restrict its power.

We believe that gambling is contrary to Christian ethics; it fosters reliance upon "luck" or "chance" while denying the principles of the Christian stewardship of possessions. It encourages the philosophy of "getting something for nothing", or receiving rewards out of all proportion to the investment of money or effort expended, and appeals at heart not to the spirit of true sportmanship but to the cupidity which hopes to win all for self at the expense of the



other participants. It is not in accord with the teaching of the Bible, for while there are frequent references to the casting of lots, this was only done after fasting and prayer to determine the will of God, save in the notable instance of the soldiers who cast lots for the garments of the Christ. The teaching of the Bible regarding the use of money is another matter—summed up in Paul's charge to the elders at Ephesus, "I have coveted no man's silver, or gold, or apparel".

It is a significant fact that arguments against the legalization of lotteries or of large scale public gambling are being urged by those who do so not as part of a "puritan reaction," but who are moved to concern for the public weal on non-religious grounds, and see gambling as it is developing on the North American scale to be harmful to the best moral and political life of man as well as injurious to his economic strength. While affording some psychological satisfaction to the gambler its repercussions make its social costs exorbitant. In reading the Report of the Kefauver Committee, a Canadian's first reaction might be gratitude that Canada is not the U.S.A., but the second thought might well be, "If gambling profits across the line are the principal source of big-time racketeering and gangsterism, if legalization of gambling does not terminate the predatory activities of criminal gangs and syndicates, if gambling seeks to control political and police functions of the State when once entrenched; if gambling tends to infiltrate legitimate business, let us have none of it in Canada."

#### *Conclusion*

All kinds of human activities in one sense are rooted in risk. Gambling is a created risk; its purpose an evil one. It can begin in harmless-seeming sport; it can become on this continent a vicious "racket" using snowballing profits to finance political corruption and social evils. It performs no vital economic function. It can be suppressed, unless public opinion is so apathetic as to be too late for most effective action.

Finally, we agree with the recommendation made to the last General Council of our Church, meeting in Hamilton, 1952, which opposed the legalization of lotteries for charitable and socially-useful purposes on the ground that "such a lottery would be morally indefensible and spiritually degrading to our nation; and that state lotteries are appallingly bad economics, drying up the springs of voluntary charity and offering solutions that cannot be validated."

(Mrs. John) LILLIAN M. McKILLOP,  
President.

DOROTHY E. LONG, Ph. D.,  
Secretary for Christian Citizenship.

The WITNESS: Mr. Chairman, ladies and gentlemen, in presenting this brief from the Woman's Missionary Society of the United Church of Canada I would like to mention first that we are a national organization and I am a member of the Dominion Board of that organization and as such was asked to be the spokeswoman for it. You will find on the first page of our brief that perhaps we have said too much about ourselves, but we thought that it was important for you to know that when we speak we are not speaking just for a group of people who are the executive of a small body, but we do speak for an organization which does reach into all parts of the country.

We have a membership, as you see near the bottom of the first page of something over 90,000 adult members, and 170,000 members in affiliated adult groups and youth organizations, so that our total strength is about a quarter



of a million. We have several very small organizations like Beaver Lodge up in Peace River which has only eight members, but in the cities and rural areas there is a very large membership, and the influence of the organization extends beyond its own membership.

In our delegation here, Mrs. Garrett is president of what you might call one section the Ottawa Presbyterial Society. We have 106 organizations like hers which draw in a local membership. She is living in Ottawa now, but has lived in Saskatchewan. Mrs. Holtby who is vice-president of one of the larger groupings, the Montreal and Ottawa Conference Branch—there are eleven of them across the country—takes in a territory that extends down to Gaspe in Quebec as well as Eastern Ontario and she has lived also in Alberta. I am mentioning this to show we are speaking as a national group, and I know in questions like lotteries, one considers public opinion as a most important factor in the enforcement of the law. We are prepared to back the law as far as our influence goes.

We have not just come to a sudden decision that we are not in favour of the extension of lottery privileges. It is a long standing policy of our organization to think in terms of raising money for charitable purposes through free-will giving. We quote on page 2 the last resolution which was passed at the last Dominion Board meeting (which has representation from all provinces in Canada), and that is just simply the last of a whole series affirming our desire that money should be raised for charitable purposes through free-will, and concern for the cause, rather than through an element of chance. We have had experience in the financing of charities that goes back some 70 years. So, I think we can speak from experience when we say that the best way to raise money for charitable purposes is from the concern of the membership and of their interest in the causes that are involved.

Our present budget runs something over \$1 million, so, if it is not exactly "big business", it is important business, and I think it shows the concern of our membership for the cause of charity when they can raise that sum. For the last three years it has been over \$1 million.

We are terribly concerned for people, quite apart from the financing on a charity basis. Our society has community centres, some 60 in Canada. We have supported hospitals: we are gradually getting out of the hospital field as the municipalities become more concerned, we have still an investment of a little over \$500,000 in hospitals, mainly on the frontiers of the country. We have schools. We have people who work with children. We are in the field of child education, and have just published a book on it. We are terribly concerned about the influence of community life on children.

And so, our second point is that we believe in wholesome family life. Wholesome development of children does not take place in an atmosphere in which there is an element of chance. I know, when it comes to a public question like this, that the moral issue is not perhaps the paramount concern of law-makers, although one would hate to think that our government was not concerned with moral issues. But, I know you receive pressure from all sorts of groups, and that our parliament represents people as a whole, so that you must consider all forms of public opinion.

I would like to emphasize that we are concerned, as you are, with the development of human personality, and Mrs. Garrett is going to speak more on that phase of the issue. As we stated in our brief on page 4, many of us are housekeepers. I know from my own experience with two public school children and a husband and a fixed income that there is only so much money in the family budget for all purposes. When you have a question like gambling



that does drain off money from other productive purposes, it does seem to be a matter that is of concern to the community and to family welfare. That is our argument on page 4.

We know that in the Irish sweepstakes (which are very much to the fore with the headlines which have been in the newspapers) the question of concern for charity enters in. We figured that 12½ per cent ultimately goes to the hospitals in that case. My son produced a chart of Irish sweepstakes stamps—I do not know where he got it, but I found it on his bureau, and I notice that the figures given show 11 million pounds raised in 21 sweepstakes for the Irish hospitals. But the prize given was 37 million pounds in that case. No statement is made of the amount that went to the promotion. It does not seem to us too profitable a way of financing good causes, nor of providing for a family, when one in three thousand is liable to be a winner and all the others are the losers. We are concerned too about what is happening on this continent. We know the experience of the British Royal Commission on Betting, Lotteries and Gaming. They did not consider the matter of lotteries from a question of a moral standpoint primarily, but yet their conclusion was that, difficult as the law might be to enforce, it was not in the public interest to extend the gambling facilities. The American experience has been rather sad. You know that as well as I do. There is one feature that I think perhaps concerns us as one perhaps more directly to the general issue. We admit in our brief that some people gamble for just amusement, and some children's games, such as my son plays, have the element of chance as well as the element of skill in them, yet underlying a great many of the things we have seen there seems to be a pressure to make gambling by lotteries common. We know that public opinion and a strict enforcement of the law have to support government legislation. We know that our members of parliament are concerned with public opinion. Gallup polls seem to indicate that there may be public opinion in favour of lotteries. I also saw the results of a Gallup poll that suggested that the parliamentary indemnities should not be raised. I do not know that we can trust Gallup polls too far. I know there is something in the British political theory that you need wise leadership from the legislators, I know that other laws are broken; I know there is some public shoplifting, and some petty thieving going on, but we do not relax the laws about that. I have driven a car, but am not driving it now because there seems to be too many traffic regulations to remember. I know that the laws regarding traffic are broken. One good friend of mine went through a red light and paid her fine. But we need laws for traffic and we need laws to give us direction in this question of gambling. So we would prefer that even the permissive clauses were removed from the Criminal Code. If you want gambling, make it straight gambling. We believe that life would be on a more wholesome and happy level for our children and for the adults if there was no gambling. I think that covers my submission.

Mrs. ROLLAND GARRETT: Mr. Chairman, and members of the parliamentary committee, Dr. Long has asked me to speak entirely in regard to family matters. Now, you know it is a well known fact that women use grocery money to buy lottery tickets and this is not in the best interest of the family. This money could be used to better advantage in buying shoes, clothing and necessities.

Children should not be led to believe in luck or chance. Gambling is an enemy of personal integrity, of family welfare and hurts the character of the individual, it pulls down our citizenship. Lotteries create the element of uncertainty in life and nothing is so injurious to children as the feeling of insecurity and the idea of one's gain being dependent upon the loss of others and the winner becoming the possessor of property that has not been



earned. The idea of something for nothing is not a wholesome way to raise a family. Unfortunately it is sometimes practised by the families who can least afford it.

It is natural that young folk want to take chances, but they can find outlets for their venturesome spirit in sports, and in many other legitimate channels without the temptation of lotteries.

It is generally admitted that the atmosphere created by the spirit of luck leads to extravagance, a lessening of self-control and a reduction in individual effort to work and save.

Gambling damages personality and the most precious thing we have is human personality.

We have all known some family man, a respected citizen, who has fallen a victim to the disease of gambling and he becomes an embezzler or worse. Yes, this thing destroys good men too often to think that there is anything good about it. Are we going to be a family-builder or a family-wrecker?

I thank you.

The PRESIDING CHAIRMAN: Now, members of the committee, this is the question period before we go on with the next item. Mrs. Shipley?

Mrs. SHIPLEY: I have no questions, Mr. Chairman.

The PRESIDING CHAIRMAN: Mr. Valois?

Mr. VALOIS: I have no questions, Mr. Chairman.

The PRESIDING CHAIRMAN: Senator Aseltine?

Hon. Mr. ASELTINE: I have no questions, Mr. Chairman.

The PRESIDING CHAIRMAN: Senator Fergusson?

Hon. Mrs. FERGUSSON: I have no questions, Mr. Chairman.

The PRESIDING CHAIRMAN: Mr. Winch?

*By Mr. Winch:*

Q. I have only one question, Mr. Chairman. I noticed on page 2 of the brief that a resolution was passed asking for the removal of the right to hold bingo games and raffles. I presume that takes in all phases of it but I would like to ask you if, in your knowledge, it is a fact that a great many churches across Canada operate bingo games and raffles?—A. I know from my own experience that they do not do so in my own church. Does that answer your question.

Q. Yes.—A. But I know that they do it in some, and I am concerned that perhaps they have reached a point where we have to try to use education and our influence. I was talking with a woman who is not a church worker but who is concerned with community life and she mentioned that where our Society was strong there was no difficulty over raffles or bingo. That was the situation as she had experienced it throughout the country. I may say that we publish a monthly magazine which has a subscription now totalling 70,000 and another magazine for children with a subscription totalling 50,000. There has been no recent article about gambling. We were waiting for a lead from here. But if I had been asked to write an article on it for the monthly magazine, or to write a paper on it, I would have done so. I think it is more than likely that I would be asked to do it. I know that we are quite ready to admit that it is a prevalent thing but we think an extension of the law, to give respectability to something which in itself is not good, will produce evil.

The PRESIDING CHAIRMAN: Now, Senator Hodges.



*By Hon. Mrs. Hodges:*

Q. I would like to ask Dr. Long a question. I listened with a great deal of interest to what has been said. Would you consider that a raffle of a cake at a church bazaar or at a charitable association was gambling?—A. I imagine that it is. I admit that it is not a major form of gambling and that it does not seem to have too much a public evil in it. But I think when something is bad there should not be a softening up process, and when you read as you do everyday testimony about the extent to which gambling can develop on this continent, you pray that it won't happen here.

Q. Thank you.

The PRESIDING CHAIRMAN: Now, Mr. Thatcher.

*By Mr. Thatcher:*

Q. I wonder if Dr. Long would tell the committee what changes, if any, she would favour being made in the Criminal Code. You mentioned section 236 on page 3. What exactly do you have in mind?—A. I am not a lawyer. I am a housewife. In speaking for our organization, I may say that this is the first assignment I have had. I have just been on the executive this year, and the very first thing they asked me to do was this brief. Therefore, I have not got a backlog of experience. But I was looking over the resolutions that had been passed at annual meetings (which draw in representatives from all over Canada) and they on the whole would prefer that this permissive clause which enables raffles and small lotteries to take place for charitable purposes be removed.

Q. Even though it be a petty raffle?—A. I imagine that they would, although I have no way of speaking authoritatively on it. The petty thing is apt to grow into the big thing.

Q. Would you be opposed to a clause which permitted this activity to be held in connection with agricultural fairs also?—A. I do not know if I could speak for agriculture. We are concerned primarily with children. I know that the difficulty now is in the fact that the law permits gambling with respect to articles valued at not more than \$50.

Q. You would be opposed even if the value was as low as \$50?—A. Yes, I think that would be the policy of my organization.

The PRESIDING CHAIRMAN: Now, Mr. Cameron.

Mr. CAMERON: You realized I think when you introduced your brief that parliamentarians do not formulate public thinking. They merely interpret public thinking.

Mr. BROWN (*Essex West*): Or lead it.

*By Mr. Cameron:*

Q. They may endeavour to lead it at times, but as individuals it is their function to formulate the law on what people are thinking. Does your organization seek to formulate opinion in this way in support of the brief with which, I might say, I agree, against this evil about which you are now talking?—A. You will notice that our membership card contains a clause at the end which concerns us. That is why we attached a copy of it to our brief. The clause reads:

To build up a fellowship committed to the doing of God's will, and to the extension of God's kingdom in the home and the community, in Canada and throughout the world.

As I have said, we have had a long experience in what we call christian stewardship—as I look back over the records I find a Presbyterian Society which began in 1821 pledged its members to paying weekly dues to finance



missions. At the first organization meeting of the Methodist Organization (which is also in the background of the United Church) they pledged themselves to raise money systematically. Actually, for most of recent years, interest on the money that we receive one year, pays our expenses for the next year. Charity-giving should be straight giving. We have taught that and we have also enjoined upon our members their obligation to raise their money without recourse to raffles.

Q. Which would indicate the view of your organization not only to your members but to the public by and large that so far as lotteries are concerned in any shape, manner or form, you oppose them, and those are the reasons you oppose them, and you are trying to educate public opinion in the matter.—

A. We are trying throughout our local organizations, whether they be small ones as in Newfoundland or large ones here.

Q. You realize that there are many organizations and many people in this country who favour lotteries?—A. Yes.

Q. And they favour bingos. You will see that particularly in the summer time in almost any fair sized community. You will find a motor boat or an automobile or something which is being raffled off or tickets sold on it, or even a house, and the reason will be said to be "oh we are going to help with boys' work or girls' work or some charitable purpose." People do not seem to think there is very much wrong in that, and they rather look forward to it and are willing to take a chance.—A. I know what my own son's reaction is. He will say: "I know we cannot afford to get a boat, but let us take a chance on that and we won't have to pay for it."

Q. You think it does appeal to the young?—A. I know that the law cannot change hearts, but it can set a standard.

Q. If you set a standard which you cannot enforce, is it good law? For example, consider a law which says that a person shall not drink. You know it would be perfectly unenforceable and that if any person is going to drink no law is going to stop him.

Mr. BROWN (*Essex West*): You mean to become intoxicated?

Mr. CAMERON: Yes.

The WITNESS: The result is that the law is broken in many directions. I just moved to Toronto from Montreal. I noticed in the store in which I shopped in Montreal there was a little window out of which the staff could look down and see what was happening. I suppose that shop-lifting was one of the reasons for it and yet we try to enforce a law against thieving and to build up public opinion there. I know your problem and I sympathize with it. It is much like the problem of drinking. Probably most drinkers know where drinking leads people. I am quite well aware of it.

The PRESIDING CHAIRMAN: Now, Mr. Boisvert.

*By Mr. Boisvert:*

Q. Dr. Long, is your society opposed to race courses?—A. No. Not so far as this brief is concerned I imagine they are opposed to gambling in most forms. They do enjoin their members to refrain from anything that seems to countenance it. I know that is the one legal form in Canada.

Mr. BROWN (*Essex West*): For the purpose of the record, you mean: Is she opposed to horse-racing, do you not?

Mr. BOISVERT: I mean race courses, race tracks and betting.

The WITNESS: We are opposed to gambling in general and we enjoin all our members not to countenance it.

The PRESIDING CHAIRMAN: Mr. Shaw.



*By Mr. Shaw:*

Q. Would you say that it would be the opinion of the body for which you speak today to have the Criminal Code so amended as to render lotteries illegal absolutely, which include bingos and a special clause concerning slot machines and so on?—A. Yes, I imagine that would be the case.

Q. In other words, a complete prohibition by law?—A. Yes, I would think so. It would bring it more into accord with the law according to the British Commission's recommendations.

The PRESIDING CHAIRMAN: Mr. Thatcher.

*By Mr. Thatcher:*

Q. Might I ask one more question: Has your group any representations to make on the subject to capital or corporal punishment?—A. Not officially. Would you like us to canvass our opinion on that?

Q. I find it very strange that a group which is influential as your group is would take it that lotteries are more important than capital or corporal punishment, or did you consider that gambling was the main problem before this committee?

Mr. BROWN (*Essex West*): I do not think that is a fair question, Mr. Thatcher. I do not think it is fair to say that they consider it to be more important.

The PRESIDING CHAIRMAN: I think the question smacks a little bit of cross-examination. You experience these things in the course of the work you are doing?

The WITNESS: Yes.

Mr. BROWN (*Essex West*): And they are making their presentation with respect to lotteries.

Mr. THATCHER: I wondered why lotteries was picked out ahead of the other two, and I presumed that they regarded lotteries as more important.

The WITNESS: I imagine it was because it comes into the field of charity financing as well as into the field of personality.

*By Mr. Shaw:*

Q. It would not be because they have no views on the other matters?—A. Oh no.

Q. If an organization is presenting a brief on lotteries I would go so far as to agree that it might be proper to ask them if they were going to make representations on the other matters before us, but I do not feel they should be cross-examined on something other than as to which they are making representations.

Mr. BOISVERT: They are free to present any suggestions.—A. We stated in our preamble that it was executive action based upon the resolution of the last Dominion Board regarding lotteries, but we did not feel that it would be democratic if we did not have the voice of the whole society re the other matters.

The PRESIDING CHAIRMAN: Our counsel has a few question to ask you.

*By Mr. Blair:*

Q. You mentioned the question of thieving. Fortunately there are relatively few thieves in a community, but there may be quite a number of people who like to buy lottery tickets. I wonder if you would care to comment on whether there is a difference in principle between the two types of laws, the law against theft and the law which might prohibit lotteries?—A. I can see where I should be a lawyer instead of a housewife.



Q. May I put it another way, Dr. Long: When some of the members of the committee asked you a question and in the course of your presentation, you suggested that, although there were thieves in the community, that did not mean that we should relax the laws against thieving, and you suggested by analogy that because some people liked to buy lottery tickets, on the same reasoning we should not relax the laws against lotteries. Now I ask you to comment on whether or not there may be a difference in principle between the two types of offences?

The PRESIDING CHAIRMAN: If I may interrupt, I do not think that Dr. Long intended to make a very legalistic distinction in raising it. It was just an illustration.

The WITNESS: Yes.

The PRESIDING CHAIRMAN: It may not have been the best illustration, but it was just an illustration. That is the way I took it and I think that is the way it was intended to be taken.

*By Mr. Blair:*

Q. I do not want to press you unduly, but there is one other question I would like to ask. I gathered from what you said that you have knowledge of a certain prevalence in Canada of lotteries; they seem to be quite numerous. I know you are aware of the social effect of lotteries and I wonder whether you would like to consider what the social effect may be of a law which would appear to be incapable of rigid enforcement? And I wonder whether you would like to say, under the present circumstances, there might be detrimental effects from having a law which cannot be rigidly enforced?—A. I would like to know first of all just how strenuous an effort was being made to enforce the law.

Mr. BROWN (*Essex West*): Why would it be a law?

The PRESIDING CHAIRMAN: I think the general principle is that law enforcement breaks down if it is not effective and does not have the support of the people. Secondly, it breaks down if in some respects the rewards for violating the law are very great.

Mr. WINCH: Could you not put the question another way? I do not want it to be too academic, but I think I have in mind what you are trying to get at. Do you not think that there is a danger with a prohibition of any form of lottery that it might work the same as prohibition worked in the case of the alcoholic field several years ago? In other words, the idea did not cure the trouble. I am speaking of course of the period of prohibition which I take it is the theme of your brief.

The WITNESS: We would rather have that than a relaxation, if that answers your question. I know your problem and I can see it; but I can also see our problem too. I think this question of enforcement is probably a most difficult one in the legal field. I am quite ready to admit it. And yet I was impressed in reading through the report of the British Commission, with the fact that they were rather lenient in their feelings towards gambling and did not see any moral issue involved, yet they did not favour relaxing it.

Mr. WINCH: Is that the 1949 to 1951 Commission?

The WITNESS: Yes; and it seemed to me as I read it through that they felt that the arguments which were advanced before the earlier commissions still stood. They felt to have a country which is wide open to lotteries, by extending facilities for them would be more harmful than the difficulty of enforcing the law. Actually, though, as far as I was able to see, they tried to enforce the law a little more strenuously in England after 1933, and instead of having some £11 million invested in lottery tickets for the Irish Sweepstakes, it was reduced to £5 million.



Hon. Mrs. HODGES: Don't you think they went in for football pools instead?

The WITNESS: That may be, but I do not know.

The PRESIDING CHAIRMAN: I think the basis on which members of the Royal Commission in England on lotteries proceeded to oppose them was because they could not justify the state going into the business of operating lotteries. Consequently, when you eliminate the state, it then becomes a matter of private sponsorship. And how are you going to draw up a law and say that only hospitals should be permitted and no others? This Commission made a report against any change in the lottery provision. They did recommend certain changes and possibly a little broadening so as to ensure enforcement in relation to betting and such things as that.

The WITNESS: They also felt that the little ones with the limited price were a public nuisance, I gathered.

The PRESIDING CHAIRMAN: But they did not recommend striking them out. It was only a nuisance with respect to the problem of enforcement because you could not have enough police officers to go around checking every little group or game.

*By Mr. Blair:*

Q. I take it that you agree with the general conclusion of the English Royal Commission's Report that lotteries should not be extended. Am I right in thinking that you disagree with the reasoning of that commission which was based largely upon considerations of expediency?—A. Well, I would say that this is something which I do not know, and I do not know whether it would be a major issue with you, but from the standpoint of a church group, a moral issue would loom up as important as the problem of expediency.

Q. Thank you.

The PRESIDING CHAIRMAN: Are there any other questions? Thank you very much.

The WITNESS: We appreciate the opportunity you have given us to appear here.

The PRESIDING CHAIRMAN: We have with us today certain members of the Christian Social Council of Canada, Department of Social Relations of the Canadian Council of Churches. We have five representatives as follows:

1. The Reverend H. E. Wintemute, President, Christian Social Council of Canada.
2. The Reverend Canon W. W. Judd, General Secretary of the Department of Christian Social Service, Church of England in Canada.
3. The Reverend F. W. L. Brailey, appearing on behalf of the United Church of Canada for the Reverend Doctor J. R. Mutchmor of the Board of Evangelism and Social Service of the United Church of Canada.
4. Professor Allan L. Farris, Secretary of the Board of Evangelism and Social Action, Presbyterian Church in Canada.
5. The Reverend Fred N. Poulton, Secretary, Christian Social Council of Canada.

The Reverend Mr. Poulton is going to make the presentation.

The Reverend Fred N. Poulton, Secretary of the Christian Social Council of Canada, Department of Social Relations of the Canadian Council of Churches, called:

The WITNESS: Mr. Chairman and ladies and gentlemen: Our first word is one of sincere appreciation to the chairman and to the secretary of this committee for the courtesy—and we mean that sincerely—which they have extended to us. Our brief follows:—

To

The Chairmen and Members of the  
Special Committee of the Senate  
and the House of Commons.

From the motion which was adopted setting up your Committee, we understand that your task is to enquire into and report upon the questions whether the criminal law of Canada relating to (a) capital punishment, (b) corporal punishment or (c) lotteries should be amended in any respect and, if so, in what manner and to what extent. The Committee which appears before you at this time wishes to deal with the third of these three subjects, namely, the question of lotteries.

The Committee presenting this Brief on Lotteries in Canada has been appointed by the Board of Directors of the Christian Social Council of Canada, and it speaks officially on behalf of the churches and religious organizations which are members of that Council. The Christian Social Council of Canada, which serves as the Department of Social Relations of the Canadian Council of Churches, represents churches and religious bodies whose members and adherents comprise an estimated eighty per cent of the Christian population of Canada, other than Roman Catholic. All of these churches and organizations have registered their official opposition to any extension of gambling facilities by amendments to the Criminal Code, and it is the unanimous judgment of the Churches which we represent that the establishment of state lotteries in Canada would be detrimental to the moral, social and economic well-being of the Canadian people.

### *1. Present Agitation For Lotteries.*

During the past few years there has been considerable agitation in certain sections of the country for the setting up of provincial and national lotteries under government control. The argument is advanced that foreign lotteries, such as the Irish Sweepstakes, take large sums of money out of Canada every year, and that this money could be used to better advantage here at home. It is also claimed by those who advocate the introduction of state lotteries that government-controlled lotteries present an easy, painless way in which to secure the money needed for public health, education and various worthy causes. In addition, it is suggested that the creation of lotteries under government jurisdiction would canalize the gambling instincts of the people, and thus destroy the menace of the professional gambler with his organized gambling rackets.

It is only fair to say that some of those who argue in favour of the introduction of lotteries are quite sincere in their motives. They propose such schemes because they have been led to believe that charitable causes will profit thereby. However in spite of their sincerity we submit that they are mistaken in the view which they have adopted. At the same time it must be pointed out that there is another group, represented by the gambling interests, which maintains a constant agitation for a relaxation of the present laws against gambling in Canada. These are the people to whom W. H. Stringer, former Commissioner of the Ontario Provincial Police, referred



when he stated that investigations by his anti-gambling squad had revealed the fact that gambling had become big business in this country. The introduction of legalized lotteries would offer to this group a further opportunity of gaining control over gambling and all the vices associated with it.

## 2. Past Experiences With Lotteries.

In dealing with the question of state lotteries, we do well to consider and review the experience of other nations which have carried out experiments in this field. If one would know the truth regarding the history of state lotteries, there is a considerable body of data upon which to base an opinion. Some nations have had national lotteries and sweepstakes. Yet over the years many of these have been abolished, which fact would lead us to conclude that state lotteries have developed evils and dangers of which public opinion could not approve. "Government lotteries have always been found to exert a mischievous influence upon the people," says the *Encyclopedia Americana*, and history reveals that various attempts at liberalizing the anti-gambling statutes by permitting certain types of government-controlled lotteries have resulted in many abuses and a marked increase in law enforcement problems. Those who think that an extension of legal methods of gambling will prevent an extension of illegal methods and practices would be well advised to read the May, 1950, issue of "The Annals of the American Academy of Political and Social Science", published in Philadelphia, which stresses the fact that state gambling activities soon degenerate into vicious corruption and personal exploitation, and that legalization of gambling does nothing to decrease either legal or illegal gambling.

(a) After five years' experiment with a national lottery, pre-war France abandoned this uneconomical method of raising money since, in Premier Daladier's words, it proved "bad for people's morals to let them live in expectation of getting rich by luck instead of by hard work."

(b) In 1931 there was an agitation in Great Britain to revive the lottery as a means of revenue. A Royal Commission was appointed to consider the question, and in 1932 the members of that body brought in a unanimous verdict against state lotteries. Whether in the interest of the state or for the benefit of charitable causes, lotteries for either of these purposes were condemned by the Royal Commission. Another British Royal Commission reported in 1951 that it had come to the conclusion "that there is no important advantage to be gained by the establishment of a national lottery and that there is no reason, in this particular case, to depart from the general principle that it is undesirable for the State to make itself responsible for the provision of gambling facilities."

(c) The experience of the United States of America in the field of legalized lotteries was a sad and costly failure. From early Colonial times until the first quarter of the nineteenth century, gambling by means of the lottery was legal in the United States, and the story of that period does not make pleasant reading. Virgil W. Peterson, operating director of the Chicago Crime Commission, has the following to say concerning the American experiment with legalized lotteries: "Lotteries gave rise to other systems of gambling that were even more vicious and dishonest and the repression of which became more difficult." Mr. Peterson further states that "frauds committed by the operators of legalized lotteries assumed monstrous proportions. The public was being bled to death financially. As usual, the needy and ignorant suffered to the greatest extent. In self protection, the people acted. They not only passed laws making lotteries illegal, they inserted provisions that were designed to prohibit the various state legislatures from ever passing laws in the future that would authorize a lottery."

Though the Louisiana State Lottery Company offered the state over a million and a quarter dollars for the continuation of its charter, and endeavoured to make it respectable by securing, at large salaries, two distinguished ex-generals of the Confederate Army as supervisors, the State of Louisiana refused to continue what had become a public scandal. In 1894 the state adopted a constitutional amendment forbidding all kinds of gambling, in which appeared this bluntly worded statement: "Gambling is a vice, and the General Assembly shall pass laws to suppress it." It is significant that when *Fortune* Magazine made a survey of lottery sentiment in the United States a few years ago it found that the majority of the people in the southwest were opposed to this method of raising money. That was the section of the country in which the scandal of the Louisiana State Lottery Company was still remembered.

On January 16, 1950, in a message to the Legislature at Albany, New York, Governor Thomas E. Dewey said: "The entire history of legalized gambling in this country and abroad shows that it has brought nothing but poverty, crime and corruption, demoralization of moral and ethical standards, and ultimately a lower living standard and misery for all the people." Governor Dewey went on to say that in the early days in most sections of the United States, "gambling and lotteries were open, widespread and legal. Corruption and poverty flourished to such an extent that in state after state the people themselves revolted against gambling and established stringent constitutional provisions against it." According to *The Encyclopedia Americana*, lotteries "are now prohibited in all the States and Territories of the United States."

It should be borne in mind that the laws against lotteries which prevail generally in the United States were not based, as is frequently stated, on a Puritanical tradition which is now outmoded in the light of present social trends and attitudes. On the contrary, the anti-gambling statutes were based on the well-considered action of citizens in numerous states usually after the professional gamblers who controlled the underworld got completely out of hand. In general, those who were the most ardent advocates of rigid anti-gambling statutes in any locality were the substantial citizens and businessmen of the community. They were not moralists or reformers. They were concerned about the widespread criminal activities of the gambling business that threatened their security and future welfare.

Three years ago, in the United States, a year-long investigation by the Senate Crime Investigating Committee, under the Chairmanship of Senator Estes Kefauver, produced conclusive evidence to support the claim that organized gambling is the enemy of personal integrity, of family welfare, of business honesty and of good government. In its report, the Kefauver Committee stated that it was the considered opinion of its members that "the legalization of gambling would not terminate the widespread predatory activities of criminal gangs and syndicates." The investigation clearly showed that wherever widespread gambling activities are present in any city, lawlessness and official corruption are commonplace. This was found to be true whether the gambling practices were sanctioned by law or were of the illegal variety. Extensive gambling has almost always existed contemporaneously with crime, graft and lawlessness. Legalization of gambling has not been, is not, and never will be a substitute for the proper performance of duty on the part of responsible officials. It can never be a substitute for honest, efficient law enforcement.

In 1953, a Commission of the American Bar Association completed a two-year investigation of gambling in the United States. This group, which included eminent judges and lawyers, reported in the following terms: "The conclusion is inescapable that professional gambling should not under any circumstances



or in any degree be licensed or legalized." The Commission found that state lotteries "quickly degenerate into vicious corruption." The pattern was always the same, reported the Commission: increased gambling, an influx of hoodlums and political corruption.

Any unbiased study of the history of legalized lotteries in the United States of America makes it impossible for the people of Canada to ignore the fact that it was an extremely costly experiment for our good neighbours to the south, and one which we in this country would be wise to avoid.

### 3. Lotteries in Canada.

In spite of the experience of other nations, there are those among us who persistently urge the amendment of the Criminal Code so as to permit the legalization of lotteries in Canada. It is claimed that a majority of the people of Canada would favour the introduction of lotteries. This is possibly correct, and the reason is obvious. Other than the organized gambling interests, few have really thought beneath the surface and have little idea of the consequences of such a step; many like to be considered as "sporting" and as being "broad" in their views; and most have a vague dream of picking up the ticket which will bring them the worldly hope they have set their hearts upon by one turn of fortune's wheel. In a matter so vital to the future of all the people, serious thought is required if we are not to be swept away by a "snap judgment" or to be governed by so-called "public opinion" polls. Twenty years ago, in 1934, a bill to permit the legalizing of lotteries was introduced in the Canadian House of Commons. Speaking to the bill, the Prime Minister of that day, the Right Honourable Richard B. Bennett, said: "When I am asked to exercise my vote as a member of the House of Commons of Canada to say that we shall legalize that which has brought the misery to the human race that games of chance and lotteries have brought, I propose to exercise my vote against any such thing . . . If I were to sit upon a jury, I would have to find the evidence against lotteries far outweighs any support that can be found either in the past or the present." The leader of the opposition, who at that time was Mr. Mackenzie King, supported the view expressed by the Prime Minister. Said Mr. King: "I find myself in entire agreement with the Right Honourable the Prime Minister. My convictions in the matter are quite as firm, as profound and sincere as his own . . . I hold that there are very strong reasons why those who have to do with the shaping of public opinion should not further or countenance any measure which, by statute, would publicly encourage gambling."

When one of the provincial governments in this country proposed the introduction of legalized lotteries in aid of hospitals, the Canadian Hospital Council, which officially represents all the provincial and other hospital associations in Canada, declared against the proposal. The Council is on record as being opposed to the principle of financing hospitals by the sweepstake method, as follows: "Resolved that the Canadian Hospital Council cannot support the principle of raising funds for the financial support of hospitals by means of sweepstakes."

In the light of the experience of other nations and the wise counsel offered by those who are in a position to know the facts, the Churches which we represent submit that the introduction of legalized lotteries in Canada would be a violation of common sense and propriety, and would give official sanction to one of the shadiest of all rackets.

### 4. Lotteries Not The Answer.

Further, in considering this question of legalized lotteries, there is a most relevant fact which must not be ignored. Very little of the money which is raised by lotteries and sweepstakes ever gets to charities. For example, the

hospitals in Eire receive less than 19 per cent of the money invested by those who purchase sweepstake tickets. The net percentage is considerably lower if one takes into account the large sums lost on bogus and fraudulent tickets, of which the hospitals get nothing. If the Irish precedent were followed in Canada, the amount available to each of our hospitals would be very little indeed. The 600-odd Canadian hospitals for acute diseases alone require well over one hundred millions of dollars annually to keep going, apart altogether from new construction. To meet the minimum amount of one hundred millions of dollars, the annual sum required from the people of Canada on the basis of the Irish sweepstakes would be \$500,000,000. Were the full cost of maintenance to be met, as some have anticipated, the total amount required would be still higher, and the hope of securing it still more absurd.

The magnificent and unqualified generosity of Canadians in support of the hospitals in this country has raised millions of dollars over the past few years. To take but one example, we would remind this Committee of the \$16,000,000 which was raised in 1951 for the Toronto General Hospital for capital expenditure. Here was giving untarnished by any suggestion that unless there were prizes and rewards there would be little or no response. There was no rake-off to encourage such giving as is the case in the Irish sweepstake draws where eleven shillings out of every twenty shillings raised must be paid back in prizes to encourage the giver, and where it costs over four shillings in expenses and promoters fees in order to raise the meagre three shillings and ninepence that finally finds its way to the hospitals.

We would also draw to the attention of the members of this Parliamentary Committee the fact that the Irish sweepstakes have had most of the English-speaking world to draw from with very little competition. The money for the Irish sweepstakes has not been raised in Eire; the largest part of it has come from Great Britain, the United States of America and Canada. The question arises as to what would happen if legalized lotteries were ever permitted in Canada. Is it proposed that Canadians become dependent upon other nations for the support of institutions and charitable causes which it should be their duty and privilege to provide and maintain? Are we to believe that the people of this country are naive enough to think that Canadian-sponsored lotteries could compete with the big stakes offered elsewhere? Would there be both federal and provincial lotteries allowed in Canada, and would there be other lotteries, for a variety of good causes, besides those operated by government bodies? Once these proposed lotteries were established in Canada, what guarantee is there that there would not be a gradual widening of the type of beneficiary until finally the worthy objectives would be submerged in the deluge and each be but one of many struggling against extinction? Is it suggested that we finance our hospitals and charitable institutions by struggling to raise five times as much money as we need in order to give away four-fifths of it for promotion and prizes? These are some of the serious questions which must be faced before any move is made to amend the criminal law of Canada as it relates to lotteries. Let us be careful lest in seeking to get around our present problems we find ourselves in much greater difficulties.

##### 5. The Churches' Attitude.

The Churches and religious organizations which we represent are convinced that the establishment of legalized lotteries in Canada would be turning back the clock to evil days. Lotteries and sweepstages have not had a happy history. Their *moral value* has never been championed, and while their evil effects upon character are more subtle and harder to determine than the material results, they are more important in the long run. *Socially* they are a denial of fellowship since their appeal is to the selfish instinct, putting forward



the lure of personal gain through others' loss. They strangle voluntary giving by discouraging people from contributing to a worthy cause unless there is a chance of winning a prize. They substitute a selfish hope of unearned wealth for the generous impulses which so ennobles men when gifts are voluntary. That has been the experience of every state and nation in which lotteries have been tried. Nor can we look for a *stable economic state* to be built on illusive dreams of wealth inspired by credulity and cupidity. In a sound economic structure there can be no place for organized government-sponsored gambling since it is always non-productive and never makes for a just distribution of goods. Hospitals and other worthy institutions would soon be in a serious plight if they had to depend upon such a notoriously unstable source of revenue as lotteries and sweepstakes. This must always be borne in mind for, as the British Royal Commission on Lotteries and Betting has pointed out, "Experience shows that interest in lotteries is essentially ephemeral in character." No government can hope to maintain a just and sound economic order if at the same time it directs the enthusiasm and energy of its citizens toward the irrational and the element of chance, by the introduction of legalized lotteries.

The Churches and religious organizations which make up the Christian Social Council of Canada stand ready to support any positive action which legislative bodies may take in an effort to curb organized gambling and its attendant evils in Canada. We shall continue to develop an educational program which will make known the facts and eventually inspire the action of an aroused majority. But, at the same time, we submit that sound legislative action is also required. Most of us accept the fact that properly enforced legislation relating to health, education and morals is conducive to physical, mental and moral betterment. It follows, therefore, that any threat to exploit a whole community clearly calls for strong legislative action. The Churches of this country ask that the State recognize its duty in this matter, for without courageous leadership our democratic system is bound to fail. It is the duty and responsibility of the State to protect its people from those who seek to exploit them for their own profit.

All of which is respectfully submitted on behalf of the Christian Social Council of Canada, serving as the Department of Social Relations of the Canadian Council of Churches.

H. E. WINTEMUTE,  
*Chairman.*

FRED N. POULTON,  
*Secretary.*

We come to you as you will see from the first page of the brief as official representatives of the churches named on page 2. You have that list in front of you and I shall not insult your intelligence by reading it. These are the churches and these are the organizations which we represent.

The members of the delegation include the Reverend Canon W. W. Judd of the Church of England in Canada; the Reverend H. E. Wintemute, President of the Christian Social Council of Canada and a member of the Baptist Federation of Canada; the Reverend Allan L. Farris, representing the Presbyterian Church in Canada; and the Reverend F. W. L. Brailey representing the United Church of Canada. The five of us represent those religious groups and communions that you see listed.

I would point out that the churches and groups for which we speak, represent 80 per cent of the Christian population of Canada, other than our Roman Catholic friends and neighbours. We naturally could not speak for the Roman Catholic Church since the members of that church are not members of the

Canadian Council of Churches, so we must leave it for our Roman Catholic brethren to speak for themselves on behalf of their own church. But for the rest who belong to other religious groups in Canada, we speak this morning officially on their behalf.

On page 2 you have our suggestions as to the reasons for the present agitation. And then on page 3 we come immediately to what we think are the important facts based upon experience with lotteries. This is not a new question and we are not facing it with our eyes closed. If we care to read history we will find that there is a considerable body of data on which to base an opinion.

At the top of page 4 we refer to the Royal Commission, to which reference has been made, and we would point out that the British Royal Commission in 1951 came to the conclusion that there is no important advantage to be gained by the establishment of a national lottery and that there is no reason, in this particular case, to depart from the general principle that it is undesirable for the state to make itself responsible for the provision of gambling facilities.

Then, in the next few pages we give some facts concerning the experience of our good neighbours to the south. We have been rather detailed here. We are an autonomous nation and we control our own destiny, but what takes place in the great republic to the south of us gives us some concern. We point out at the top of page six that the laws against lotteries which prevail generally in the United States were not based, as is frequently stated, on a puritanical tradition which is now outmoded. On the contrary, the anti-gambling statutes were based on the well-considered action of citizens in numerous states usually after the professional gamblers who controlled the underworld got completely out of hand. The second paragraph on page 6 points out the experience of the United States Senate Crime Investigating Committee, under the chairmanship of Senator Estes Kefauver, and their report stated that it was the opinion of its members that "the legalization of gambling would not terminate the widespread predatory activities of criminal gangs and syndicates." In fact that reverse is true. I would quote here from the pen of a man regarded highly, I believe, by all of us, namely, Mr. Paul S. Deland, who is the managing editor of the Christian Science Monitor. He says:

The history of gambling in the United States proves that its legalization has invariably increased gambling with all its attendant criminal evils. Of course, legalization means acceptance of a practice, putting an official O.K. or "go ahead" sign on it. While the intention ostensibly is to regulate gambling, nevertheless it opens the door to abuses, as experience has proved in Nevada and every other place where such procedure has been tried. There are those who argue that with legalization such practices can be held in check; but experience shows that thus standards of morality have been lowered and the devices for abuse have been legalized.

On page 7 we refer to a recent statement of a commission of the American Bar Association, and they report:

The conclusion is inescapable that professional gambling should not under any circumstances or in any degree be licensed or legalized.

The Commission found that state lotteries quickly degenerate into vicious corruption. The pattern was always the same, increased gambling, an influx of hoodlums, and political corruption.

Let me refer to the agitation here in Canada, and we will be perfectly honest and fair with you—if we were not you would know the facts anyway. It is claimed that a majority of the people in Canada would favour the intro-



duction of lotteries. Reference is made to public opinion polls as proof for this claim. This is possibly correct, and the reason is obvious. Other than the organized gambling interests, few have really thought beneath the surface and have little idea of the consequences of such a step; many like to be considered as 'sporting' and as being 'broad' in their views; and most have a vague dream of picking up the ticket which will bring them the worldly hope they have set their heart upon by one turn of fortune's wheel. In a matter so vital to the future of all the people, serious thought is required if we are not to be swept away by a 'snap judgment' or to be governed by so-called 'public opinion' polls. Twenty years ago, in 1934, a bill to permit the legalizing of lotteries was introduced in the Canadian House of Commons. Speaking to the bill, the Prime Minister of that day, the Right Honourable Richard B. Bennett, said: "When I am asked to exercise my vote as a member of the House of Commons of Canada to say that we shall legalize that which has brought the misery to the human race that games of chance and lotteries have brought, I propose to exercise my vote against any such thing . . . If I were to sit upon a jury, I would have to find the evidence against lotteries far outweighs any support that can be found either in the past or the present." The leader of the opposition, who at that time was Mr. Mackenzie King, supported the view expressed by the Prime Minister. Said Mr. King: "I find myself in entire agreement with the Right Honourable the Prime Minister. My convictions in the matter are quite as firm, as profound and sincere as his own . . . I hold that there are very strong reasons why those who have to do with the shaping of public opinion should not further or countenance any measure which, by statute, would publicly encourage gambling."

We also refer to the proposal made by a provincial government and the declaration of the Canadian Hospital Council which said they could not support the principle of raising funds for the financing of hospitals by means of sweepstakes.

Come now to page 9. I am going over this hurriedly since you have read this brief, I know. We say that there is a most relevant fact which must not be ignored. Very little of the money which is raised by lotteries and sweepstakes ever gets to charities. For example, the hospitals in Eire receive less than 19 per cent of the money invested by those who purchase sweepstake tickets.

Some of you might say that Mrs. Long mentioned the figure 12½ per cent. The answer is obvious. The figures we are quoting in this brief are the official statistics issued by the Irish Hospitals Trust. This is the amount of money received by that corporation in Ireland. And out of the money they receive, less than 19 per cent reaches the hospitals. But, in addition there are literally thousands of bogus and fraudulent tickets. Let me read again from the annals of the American Academy of Political and Social Science:

A huge number of chance books for the Irish Sweepstakes, for instance, were found to have been published in Montreal, imitating the genuine books. Sale of these tickets gave the printer of the books the entire profit, rather than merely a commission.

The Irish Hospital Trust Company did not even see the tickets, much less the money. And if you take into account these bogus tickets, then the amount that the hospitals finally receive out of the amounts originally paid out for tickets drops down to around 12½ per cent. We have given the figures of the money received by the Irish Sweepstake Trust, and less than 19 per cent reaches the hospitals in whose name the plea is made for the support of the Irish sweepstake.

In Canada, 600-odd Canadian hospitals for acute diseases alone require well over \$100 million annually to keep going, apart altogether from new construction. To meet the minimum amount of \$100 million, the annual sum required from the people of Canada, on the basis of the Irish sweepstakes, would be \$500 million. Were the full cost of maintenance to be met, as some have anticipated, the total amount required would be still higher, and the hope of securing it still more absurd. And then we point out: the magnificent and unqualified generosity of Canadians in support of the hospitals in this country has raised millions of dollars over the past few years. To take but one example, we would remind this committee of the \$16 million which was raised in 1951 for the Toronto General Hospital for capital expenditure. Here was giving untarnished by any suggestion that unless there were prizes and rewards there would be little or no response. There was no rake-off to encourage such giving as is the case in the Irish sweepstake draws where eleven shillings out of every twenty shillings raised must be paid back in prizes to encourage the giver, and where it costs over four shillings in expenses and promoters fees in order to raise the meagre three shillings and ninepence that finally finds its way to the hospitals.

I have not referred to the government tax there. We would also draw to the attention of the members of this parliamentary committee the fact that the Irish sweepstakes have had most of the English speaking world to draw from with very little competition. The money for the Irish sweepstakes has not been raised in Eire; the largest part of it has come from Great Britain, the United States of America and Canada.

The question arises as to what would happen if legalized lotteries were ever permitted in Canada. Is it proposed that Canadians become dependent upon other nations for the support of institutions and charitable causes which it should be their duty and privilege to provide and maintain? Are we to believe that the people of this country are naive enough to think that Canadian-sponsored lotteries could compete with the big stakes offered elsewhere? Would there be both federal and provincial lotteries allowed in Canada, and would there be other lotteries, for a variety of good causes, besides those operated by government bodies? Once these proposed lotteries were established in Canada, what guarantee is there that there would not be a gradual widening of the type of beneficiary until finally the worthy objectives would be submerged in the deluge and each be but one of many struggling against extinction? Is it suggested that we finance our hospitals and charitable institutions by struggling to raise five times as much money as we need in order to give away four-fifths of it for promotion and prizes?

Ladies and gentlemen, on behalf of the churches which I represent we suggest that those are some of the serious questions which must be faced before any move is made to amend the Criminal Law of Canada as it relates to lotteries. Let us be careful lest in seeking to get around our present problems we find ourselves in much greater difficulties. Lotteries and sweepstakes have not had a happy history. Their moral value has never been championed, and while their evil effects upon character are more subtle and harder to determine than the material results, they are more important in the long run. Socially they are a denial of fellowship since their appeal is to the selfish instinct, putting forward the lure of personal gain through others' loss. They strangle voluntary giving by discouraging people from contributing to a worthy cause unless there is a chance of winning a prize. They substitute a selfish hope of unearned wealth for the generous impulses which so ennoble men when gifts are voluntary. That has been the experience of every state and nation in which lotteries have been tried. Nor can we look for a stable economic state to be built on illusive dreams of wealth inspired by credulity and cupidity.



In a sound economic structure there can be no place for organized government sponsoring gambling since it is always non-productive and never makes for a just distribution of goods. Hospitals and other worthy institutions would soon be in a serious plight if they had to depend upon such a notoriously unstable source of revenue as lotteries and sweepstakes. This must always be borne in mind for, as the British Royal Commission on lotteries and betting has pointed out, "Experience shows that interest in lotteries is essentially ephemeral in character." No government can hope to maintain a just and sound economic order if at the same time it directs the enthusiasm and energy of its citizens toward the irrational and the element of chance, by the introduction of legalized lotteries. We assure the members of this committee that the churches we represent stand ready to support any action to curb organized gambling which this body may propose to parliament. We shall do our best to develop an educational program which will make known the facts and eventually inspire the action of an aroused majority. But, at the same time, we submit that sound legislative action is also required. Most of us accept the fact that properly enforced legislation relating to health, education and morals is conducive to physical, mental and moral betterment. It follows, therefore, that any threat to exploit a whole community clearly calls for strong legislative action. The churches of this country ask that the state recognize its duty in this matter, for without courageous leadership our democratic system is bound to fail. It is the duty and responsibility of the state to protect its people from those who seek to exploit them for their own profit.

All of which, ladies and gentlemen, is submitted on behalf of our organization. Mr. Chairman, the other members of the delegation and myself are prepared to try to answer any questions that may be asked.

The CHAIRMAN: I wanted to ask Canon Judd a question. We have received a brief from the Church of England on lotteries, and I wonder if there was anything you wanted to add by way of supplement to the brief? (See Appendix)

REVEREND CANON JUDD: Ladies and gentlemen of the committee, I do not want to add anything to this brief which you have in hand, because I have been told that it is going to be printed and will be found in your record. I have described it as a very brief brief. On the first pages it gives you samples of the resolutions of the General Synod of the Church of England in Canada, or its Executive Council, which meets with the Department of Christian Social Service of the Church of England in Canada. May I read you the last one passed in September:

The council has heard with uneasiness that in the revision of the Criminal Code the sections dealing with gambling are to be subject to re-examination by a special commission and urges that no lessening of the restrictions against gambling practices, including sweepstakes and lotteries, be made by the government or parliament and instructs the Executive Committee to make appropriate and strong representations to the commission, when established, along the lines so frequently set forth by General Synod.

These other resolutions give you the lines set forth by the Church of England in Canada. That is the official opinion of the Church of England representing as far as it can across the country one million six hundred thousand people. The General Synod is made up of all the bishops and representative clergy from all the 28 dioceses, and an equal number of laymen or laywomen from those dioceses, and when it speaks it speaks on behalf of the church.

The second part of this brief gives you in a very brief form the reasons why the church has taken these stands and our reasons for bringing them to you. You have heard most of what is already set forth in this brief. May I stop here for a moment and say that this other brief presented to you by Mr. Poulton is a product of a committee, as he has said, representing the constituent bodies of the Christian Social Council of Canada. I was part of that effort as a member and I have stated that we are behind it. I also say we will not trouble you again with facts and figures, but give the arguments in very brief form:

1. (a) To permit lotteries, whether under governmental control or permission or otherwise, offers another form of gambling.

(b) No mania spreads more quickly or naturally than the practice of gambling. Gambling creates gambling. It creates a fever which spreads.

(c) Gambling is a menace to the moral fibre of individuals and ultimately of the nation. The desire to get something for nothing is a denial of honesty and industry.

(d) Gambling ultimately contributes to the power of the underworld and to the grip which it exercises in any society. The experience of the United States is entirely relevant.

(e) Gambling is a denial of the rational use of money either in the world of production or of finance and investment.

2. Lotteries present no sound economic policy for the support of philanthropic institutions or movements. (a) Participation in them and the spreading of the method of lotteries has been proven to dry up the springs of goodwill giving. (b) They contribute to an irrational use of finance and investment. (c) They cannot contribute enough even to the hospitals alone, of Canada, supposing that this be the only object of the proposed legislation.

Relevant figures to illustrate these principles will be presented to your committee in a brief by the Christian Social Council of Canada, which is fully endorsed by this Council of the Church of England in Canada.

3. Gambling in all its ramifications becomes a centre around which intemperance with its accompanying evils and prostitution flourish. This is the testimony of many, including a highly placed police officer in one of our great Canadian cities. Of the three evils gambling is the hardest to deal with. Lotteries will but contribute to this three-fold menace.

4. The extension of gambling to public lotteries permitted by the law will in no way make it easier for the law officers of the Crown and the police to enforce law, even the present law as it stands. This contention has been advanced by interests vested in gambling, and, unfortunately, at times by some authorities charged with enforcing the law.

To express it another way, it is a false contention that by extending the privilege of gambling we shall cure a moral disease in individuals and the body politic, and make the enforcement of law practicable.

Lotteries cannot help individuals or the nation to limit themselves to gambling as permitted by law. Such legalization will contribute to a spirit in them which will extend to further illegal gambling. Legalized betting as, for example, on the race tracks has never prevented the spread of illegal gambling.

5. Gambling is a denial of the principle of sacrificial giving by which throughout our history the Canadian people have been most generous supporters of philanthropic objects.



Enforcement of the law also is a question. I know of no rigid enforcement of law even for murder. You cannot determine what you mean by that. You do know what you mean by an attempt at enforcement. I was 15 years of age when the question first came before me. From the time I was 15 years of age I have never seen the principle of law enforcement made more so by the extension of certain practices, rather the extension has helped the extension of the evil and the breaking of the law. That is a personal experience. But, I do believe that the law officers of the Crown could enforce the present law. There is an element where the law is not observed, and that is where police action is needed. I want to say here that the Canadian police forces are of the best in the world. I want that on the record, but I do say that there are places where they may be lax in their duty. I do not think that there is any reason for extending the principles of gambling in the hope that you will be able to enforce the law. It is a false presumption to think that by extending the privileges of gambling we shall cure a moral disease in individuals or body politic and make the enforcement of the law practicable. You cannot expect individuals to limit themselves to something if it is permitted by law. Now, if the Minister of Justice were here he would have told you in the last five years he has had many people represent before him the desire to extend legal methods to stop this practice. There is a responsibility on parliament to uphold the highest principles of religion as it applies in these moral fields.

Finally, I want to say that we are wholly in support of the very fine brief presented by the Christian Social Council of Canada. It has been supported by our body.

I believe Mr. Poulton and others will be able to answer questions.

*By Mr. Shaw:*

Q. I notice that throughout the brief emphasis is placed upon objection to any extension of gambling facilities. Little reference has been made to the law as it stands today. Would Mr. Poulton comment on the law as it stands today? You realize some lotteries are legal providing the prize is not worth more than \$50.—A. At the moment our main concern in this brief is that there be no extension of gambling privileges. That there be no amendments that would change the present law. We have appealed on other occasions, and if Mr. Garson were here he would remember my letters to him on behalf of the council. Among other things, we have asked that the subsection of the Criminal Code which now permits raffles or prizes at any bazaar for any charitable or religious purposes be deleted. We in the Canadian Council of Churches ask that the section be repealed.

Q. I asked the question because I got the impression throughout the presentation that your prime function may be that of extending the law rather than recommending it be restricted. Thank you for that information.

*By Mr. Lusby:*

Q. If it should appear that there is a very strong public opinion in favour of widening the field of gambling, would you think that the committee should take that into account?—A. I think that they should take it into account by studying the reasons behind that opinion. There is, for instance, the matter of traffic laws. I am sure that if you asked for a public opinion poll about what people thought of no parking or parking for two hours—I am speaking of Toronto now—and I am sure the same thing holds true in Ottawa too, if the people were asked their opinion concerning these traffic laws or bylaws, public opinion would say do away with many of them.

Mr. WINCH: Do you really believe that?

The WITNESS: I believe that the majority of people would say that they are just headaches. Why should I be restricted as to where I put my car, and whether I park in front of my house. I believe that, yes.

The CHAIRMAN: I think the Gallup poll might show otherwise.

The WITNESS: It might.

*By Mr. Boisvert:*

Q. At page 7 you say: "it is claimed that the majority of the people in Canada would favour the introduction of lotteries". Have you any ground to back up that statement?—A. The report of a public opinion poll appeared in some of our metropolitan newspapers in Canada about a month or six weeks ago in which the findings of one of these polls were given. I am not clear as to how the people are contacted. I have never been approached. But, apparently the pollsters approach a cross-section of the population, and the majority in that case said that they would favour the introduction of legalized lotteries?

Q. Do you think those polls really represent the public opinion of the country?—A. Personally I would question it.

Mr. BOISVERT: So would I.

Rev. Canon JUDD: I believe that you have heard of this problem over the last few years because of public agitation, and that public agitation has not come from the ordinary public wholly. Most of it has been generated by interests that want these gamblings extended. Now, that is nearly always the history of all agitations in these moral questions. It is a hard thing for me to support, but I ask you, ladies and gentlemen, to look at that with wide open eyes, and look back over all your reading and history of these things. Is it not the case that most of these things are engineered by interested groups.

*By Mr. Cameron (High Park):*

Q. Mr. Poulton you have expressed your opinion regarding section 226. What is your opinion with respect to the last clause in section 226 of the Code which permits: charitable or religious organizations to hold games for which a direct fee is charged to the player if the proceeds are to be used for the benefit of any charitable or religious object. That, I imagine, is the clause under which a bingo game, for example is held.—A. We would certainly ask for the withdrawal of that clause.

*By Mr. Thatcher:*

Q. Mr. Chairman, Mr. Poulton made one statement that I would like to question him on. He said that very little of the money from these lotteries ever gets to charity and emphasized the Irish sweepstakes. He may be correct on that, but did he suggest that that is true of these local church charities and things run on a petty scale?—A. My answer to that is, I do not know. In the church of which I am a member they do not have those games of chance. However, the subject under discussion so far as we are concerned is the matter of lotteries of which none is legal in Canada. I think that is correct. The only legal betting, as I understand it, in Canada is the pari-mutuel, betting at racetracks, and small raffles and games of chance held at bazaars and so on. But, the word "lottery" I think you will find does not appear as being permitted in Canada.

*By Mr. Blair:*

Q. Perhaps the witness would like to add the lotteries and other games of chance conducted at agricultural fairs?—A. Yes. It of course brings up the question of what is an agricultural fair. The Canadian National Exhibition?



*By Mr. Thatcher:*

Q. The experience I have had with these petty games of chance which have been used for charitable purposes is that most of the money has arrived at the charity. Have you any evidence to suggest that that is true?—A. Are they legal?

The PRESIDING CHAIRMAN: Yes.

The WITNESS: Then, we are not here today to debate the rightness or the wrongness. The churches we represent do not indulge in them.

Mr. FAIREY: Yes, they do. Certainly the Anglican Church does.

*By Mr. Winch:*

Q. That is the point I cannot understand. Mr. Poulton said he officially represents approximately 80 per cent of the Protestants of Canada.—A. Yes.

Q. And you have taken a stand that you would like to see the removal of certain clauses that would wipe out the bazaar raffles and everything else?—A. Yes.

Q. And my experience is that the Protestant churches carry on bazaar raffles and things of that nature.

Mr. BROWN (*Essex West*): Are they members of this council?

Mr. WINCH: They must be.

Mr. BROWN (*Essex West*): Is it not a fact that the council does not include all the Protestant churches?

The WITNESS: It includes 80 per cent.

REV. CANON JUDD: We all have to acknowledge that in some of our smaller churches, some to a very small extent, and some to a greater extent, there is a difference between the official opinion and the opinion of some of the members. In this particular matter we have to acknowledge it, but for the purpose of the record we have to say we are here today against the extension of privileges of gambling.

Other churches possibly are on record—and my own church, is on record—against this matter of occasional raffles with prizes of \$50 and under on the basis of an “occasional” nature. Those are the two elements in the Criminal Code. My own church is against that officially. We know a few of our congregations are party to those ventures, but they are very few. There is a difference, and we have to acknowledge it, but the 80 per cent of the Protestant churches do not have any of these raffles.

We want it on the record that we are here against the extension of the privilege of gambling. One of the reasons why we want the section about the smaller raffles expunged is because it has not been lived up to. People have taken advantage of that \$50. You can find on the street of any city a car valued at \$2,700 or whatever it is. During wartime in Canada you found raffles of fox furs. You can find service clubs doing the same thing. We hope that that kind of thing will discontinue. We would like to see the law expunged because these extensions and irregularities go far beyond what the law allows. I think you have a very grave question to face there if you are going to deal with that question. We are not asking for that today, however.

*By Mr. Valois:*

Q. In your brief Mr. Poulton, I can see that you are getting the opinions of different persons or associations in the United States. For instance, you quote Mr. Dewey. I understand, of course, that everyone of them is against gambling. Have you any information as to what the gambling situation is in fact in the United States? In other words, I quite agree with you that as a matter of principle gambling is no good. But, I am told, for instance, in Reno, Nevada,

it is a place where you can gamble with slot machines and practically every kind of device for gambling?—A. That is true. There are no lotteries in Nevada. It is the one state in the United States of America that has wide open gambling. You know, of course, that economically it is not the most advanced state in the U.S.A. If the gambling business were closed tomorrow, statistics show that the state would be financially finished. But, there are no lotteries as such, which is the point of our brief.

Q. You have to admit that the public opinion very much would favour an extension of the laws?—A. According to the public opinion polls.

Q. Do you not think that one of the reasons such a public opinion is found is because in the newspapers it shows that Mr. so and so in Montreal or Vancouver has won a ticket in the Irish sweepstakes and the one who calls himself a happy winner does not experience any trouble in catching his prize? Have you any suggestion to make about that?—A. It seems to me as a layman in legal matters that there are two factors here. First of all, I feel that our large metropolitan newspapers have a moral obligation which at times I am afraid they fail to recognize. Last Saturday in the city in which I live, both evening newspapers came out with pictures of these lucky winners. All the work we tried to do in the church for a year is nullified. Yet, on the editorial page of one of those newspapers there have been editorials urging that there be no relaxation with respect to the laws against gambling, and some of us wonder how to reconcile the news coverage with the editorial policy. We wish that these newspapers would have some sense of responsibility in this question. In the second place, if lotteries in Canada are illegal, why could not these people be charged with engaging in an illegal practice? I do not know. There is a legal expert at the end of the table who perhaps would tell us.

*By Mr. Winch:*

Q. In view of what you have just said I take it you are in favour of the complete enforcement of the law as it stands now as regards to lotteries?—A. Yes.

Q. Do you mean that the money paid as the prize of the lottery should be confiscated when it comes into Canada?—A. The Postmaster General and the postal authorities do a splendid job and seize these lottery tickets. But it is difficult for our postal authorities to know what is in a sealed envelope. After all it is Her Majesty's mail and unless they have a very good reason for opening it, I understand that they dare not do it.

Q. If you are going to bring \$140,000 into Canada for a winner, that has to go through some procedure that the government knows about. Do you feel if that money was stopped we would stop the practice in Canada?—A. As soon as it is publicly announced that "John Jones" has won, the government should step in and say it is illegal.

*By Mr. Valois:*

Q. No doubt you are against slot machines?—A. Yes.

Q. So am I. There is one thing that I would like to comment on. The way a slot machine is built, it is conceivable, that when we have paid the money, we pay for it just to have the fun of seeing the cherries or the symbols going around. If you happen to go into that line, you buy those machines in the United States and will not experience any difficulty in having them come over the border. Do you feel if they were stopped at the border it might be a good way to stop that nuisance?—A. If I were in the Department of Justice I would do my best to see that they did not come into the country.



*By Mrs. Shipley:*

Q. I would like to refer Mr. Poulton to a statement made on page 11. It says: "socially"—and I understand here you are referring to legalized lotteries in Canada. You say: "Socially they are a denial of fellowship since their appeal is to the selfish instinct, putting forward the lure of personal gain through others' loss." Now, I presume that that statement applies to all forms of gambling, and you are saying you are against all forms of gambling?—A. Yes.

Q. I do not know how you justify the statement because, outside of the wages you earn, almost everything in which one is concerned today is a desire for gain at someone else's loss. Dealing in the stock market would be a desire for gain at someone else's loss?—A. I frankly could not go along with you. Honest, law-abiding business is not, I think, a desire for someone else's loss. It is a desire to produce a product which people want in competition with your competitors and to produce it better in order to get the business. You are not gambling his money away or taking his money.

Q. What about the stock market?—A. Much that goes on in the stock market is speculation. Investment is one thing, but certainly most of the speculation that goes on is gambling and is wrong.

Mr. WINCH: That is very interesting.

The WITNESS: I am not talking about *bona fide* investments but I am talking about market speculating.

*By Hon. Mrs. Hodges:*

Q. I am interested in that because I happen to know a minister of a church who speculates.—A. He should be ashamed.

Q. But at the same time he held forth in public against raffles or gambling, and I must say I found the attitude very hard to reconcile.—A. And you would not have much confidence in that man's character.

Q. I would question it.—A. So would I.

*By Mrs. Shipley:*

Q. There is a strong feeling by the ordinary worker who has not too much money to purchase stocks with on the market that to take a little bingo game away from him, or a chance to win something—I am not suggesting he is spending more than he can afford or that the child goes without shoes by reason of it—there is a strong feeling among those classes of people that by taking away his opportunity of going to a bingo game you are taking away his fun. But, you think that the stock market is alright because it is legalized, and if you have money enough to go to a racetrack it is legal to bet on the horses. He wants some fun too. How do you rationalize that?—A. I would point out that we are not here as a council to consider the question of bingos or small raffles. The whole point is, we are recommending no extension of the facilities for gambling in Canada by amendments to the Criminal Code that will permit the introduction of lotteries. We are not here at the moment to speak on the other matters, but we have our opinion regarding these bingos and games of chance. We have asked—and Mr. Garson will remember our letters to him each year—that section 6(b) of section 236 of the Criminal Code be repealed.

Q. That was the point I was referring to. You made that statement previously that that was the feeling of your group.—A. Of our churches, yes.

*By Mr. Winch:*

Q. I know for a fact in my own constituency in Vancouver that as a rule on a Wednesday or a Saturday night in my riding you will find not less than twenty bingo games going on under various auspices, and if you go there you

will find hundreds of dear old souls who are good citizens, good church goers, who look forward to this once or twice a week when they can take their 20 cents and go for an hour and play whist and have an evening of fun for 20 or 30 cents. They look forward to it. They are fine people. Where is your objection to it?—A. We feel that the principle of gambling is wrong, and therefore do not wish it under the auspices of the church. We feel that this thing is wrong, and that you do not make it right by bringing it into a church hall. We are not saying to the Lions Club or the Legion or to any other club, what they shall do, but we are saying so far as the church is concerned we wish that privilege taken away from us; we do not want it.

*By the Presiding Chairman:*

Q. It is a matter of choice in the particular organization whether they have a bingo or not?—A. Yes.

Q. So that if you do not trust yourself sufficiently, then you want the law to take away the privilege of your exercising this choice?—A. That is one kind of argument, but if the law were such that we were treated the same as every other group we would feel a lot better about it. I wonder if any of these three of our delegates here would like to say anything.

The PRESIDING CHAIRMAN: Our counsel has some questions to ask. I hope that the other members of your delegation feel that they are free. If you have any answers you wish to make do not hesitate.

Mr. BLAIR: Perhaps I could deal with the question of what happens to the man who wins the \$100,000 lottery prize. The only provision made in the code is that any person, who buys a lottery ticket, is subject to conviction for a summary offence and a fine of \$25.00. So, I am afraid it is not worth while to prosecute such persons. But, I gathered from what you said, Mr. Poulton, you would favour some legal steps being taken to confiscate the prize?

The WITNESS: Yes.

Rev. CANON JUDD: Yes.

Mr. THATCHER: It now is not subject to income tax?

Mr. BLAIR: No.

The WITNESS: That was Fred Poulton's personal opinion when I answered that question.

*By Mr. Blair:*

Q. By the way of elaborating your opinion, might I suggest as we face this problem we see different kinds of lotteries which have been suggested. The first are what you might call state lotteries; the second are what you might call large public lotteries with huge prizes; and, the third, are what you might call medium prizes lotteries, and I am afraid we see a lot of them in this country now, travelling on the windy side of the law, where the prizes might be an automobile or refrigerator or something of that kind. I believe that you have made yourself very clear in opposing all three types of lotteries?—A. Yes, and in that I speak for the churches.

Q. I am sure you have observed that the third type of lottery, of which I have spoken, is quite prevalent and steps apparently cannot be taken to control or confine it in this country.—A. I would question that. I would read, if I may, the official report of the Senate committee that was set up a year or so ago to report and inquire into the sale and distribution of salacious literature. At page 517 of Official Report of the Senate Debates of April 29, 1953, it says:

They further add that thus far they have not received any representations from law enforcement agencies which would lead them to believe of those who have stated that it is unenforceable have shown



that they have invoked same and have failed to secure a conviction because the law was unenforceable; and further, in some cases it is difficult to resist the impression that not wanting to enforce the law, they offer the excuse that it is not enforceable.

We, in the churches, are not yet convinced that the law in Canada cannot be enforced with regard to the question of lotteries.

Q. It does appear from various sources of information available to this committee that one of the most serious questions which this committee faces is whether or not there is a grave social danger in having a law which is brought into contempt because of its unenforceability. In that connection, I wonder if I could read into the record the findings of the 1933 United Kingdom commission on gaming and lotteries:

We do not ignore the objections to gambling on ethical grounds, put before us by the representatives of the Churches. But the field of ethics is not co-extensive with that of the criminal law. On the one hand there are many forms of conduct which are generally considered to be morally wrong or reprehensible, but which are not contrary to the criminal law. On the other hand there are matters in regard to which the State has found it necessary to make laws, independently of any question of morality. In any case, public opinion generally would not support legislation based solely on ethical objections to gambling.

And then it continues in a further paragraph:

In framing legislation, we regard it as of the utmost importance that not more prohibitions should be made than are absolutely necessary. Every new prohibition creates a new class of potential offenders. It must, of course, always remain a matter of judgment, based on the facts of each case, whether a particular social evil is sufficiently serious to justify criminal legislation. But as a general principle the criminal law must not lightly be invoked; and the evils which result from any prohibition, however desirable the object aimed at, must be set in the balance against the evil which it is sought to diminish.

I wonder, Mr. Poulton, if you would be prepared to comment on the finding of the royal commission as a general principle in framing legislation with respect to lotteries and gambling?—A. Well, that is quite a statement you have read. What we had to say in our brief is that it is not prohibition for which we are asking; we are not asking that there be further restrictions placed upon the people of Canada; we are asking that the law as it stands be enforced; and we are asking that there be no opening up of the privileges of gambling. May I suggest that one way of reading the finding of the royal commission is that it is a question of a law which might not be capable of enforcement because a large section of the public see no merit in that law.

Q. You are opposing in principle this gambling?—A. That is right.

Q. And you think that the legislation should, as closely as possible, conform with that principle?—A. Yes.

REV. CANON JUDD: May I ask you the result of the 1933 Royal Commission in Great Britain?

The PRESIDING CHAIRMAN: They recommended against the extension of lotteries.

REV. CANON JUDD: Now, it resolves itself into this matter of the point of balance between enforcement and non-enforcement. Is there anybody here who can say that a \$2,100 car or a \$300 electric refrigerator is the point of balance? We saw cases during the war where as a result of our representation to certain service clubs and certain law officers, in one particular province, certain service

clubs withdrew their raffles. Part of that was police compulsion, and part of it was from appeal by us. But, when you see an attorney general for example conniving with something of that kind, then you ask the question who is responsible, the public or that man? He is more than the public in his position. I would challenge you with the statement that people do not know where the balance is. I do not think that it is the part of legislators to take the stand that any law cannot be enforced. We have every sympathy with the law officers of the Crown, from the Minister of Justice down, in the attempt to enforce the law, and I paid tribute to our officers in my earlier statement, but we do believe that there is this phase where force can be brought to bear in some of these places to a better extent, and half a dozen prosecutions would cure the thing in a given area.

MR. THATCHER: Am I not right in assuming that it is only the provincial attorneys general who can carry out that prosecution?

THE PRESIDING CHAIRMAN: Yes. Following up what Mr. Blair read, the Royal Commission on Betting and Lotteries that concluded their hearings in 1951 have this to say:

186. We are led by all the evidence we have heard to the conclusion that gambling, as a factor in the economic life of the country or as a cause of crime, is of little significance and that its effects on social behaviour, in so far as these are a suitable object for legislation, are in the great majority of cases less important than has been suggested to us by some witnesses. We therefore consider that the object of gambling legislation should be to interfere as little as possible with individual liberty to take part in the various forms of gambling but to impose such restrictions as are desirable and practicable to discourage or prevent excess.

In your view is that sound or not?

REV. CANON JUDD: I would ask, where is the point of balance? I do not agree with that commission personally. Neither did the Archbishop of Canterbury. I do not believe that the royal commission know where the point of balance of law enforcement and non-enforcement is.

*By Mr. Blair:*

Q. The point of my question was simply to establish that there may appear to be a conflict of basic principles of ethics and morals and the broad question of public policy which has been raised by the United Kingdom royal commission. I would like to ask this question: it has been suggested that commercial gambling would have a detrimental effect, and would Mr. Poulton care to comment on the connection, which might exist between the authorization of what we have called a medium sized lottery conducted by benevolent and charitable organizations and commercial gambling?—A. I am sure, as is suggested in our brief, if we opened up in Canada and hospitals were permitted to have these government controlled lotteries, who is to say that in a few years from now some other project would not say, you have allowed hospitals to sponsor lotteries, why not allow us to do it? Statistics would be produced to show that it was a needy cause, and you would have created a precedent.

Q. It has been suggested that there are forces who are urging the extension of gambling and lottery facilities. This committee has received representations from large national bodies which indicate that they would favour the extension of lotteries, and I wonder whether this might be taken as an indication of some broad public interest in an extension?—A. I would say so. I have said that in two places in our brief. It is only fair to say that some of those who argue for



the introduction of lotteries are sincere in their motives. Let us be quite clear on this. We believe that they sponsor these schemes because they think that charitable causes are benefited thereby. We are just as honest when we say that we think they are mistaken.

Q. I have one further question. We have spoken about various types of lotteries and perhaps members of the committee might have thought of one other type of quasi lottery to which there is a large amount of public attention given at the present time. They are called competitions. They occur in newspapers and radio programs, and there are elements in skill involved, and there are elements of chance. I wonder whether Mr. Poulton has any opinion to offer on the desirability of confining these so-called competitions?—A. The matter has not been discussed in our council, therefore, I could not give an official opinion. My own opinion is that if they are purely matters of skill, then there could be no criticism: but if the main element is the element of chance, I would say they should be restricted.

REV. CANON JUDD: For the purpose of the record, I wanted to comment on the question of ethics.

Mr. BLAIR: And public policy.

REV. CANON JUDD: Ethics and public policy. Our committee representing these churches is here to talk about ethics and morals. But it is also in our brief that the economics of lotteries is unsound *and we hope that will not be overlooked*. Our arguments on the ethical factor we believe to be sound, but the other factors should be taken cognizance of. It is not to be thought that we are here to deal only with what is recognized as morals.

The PRESIDING CHAIRMAN: Well, it is one o'clock and time to adjourn. I want to thank you, gentlemen, for the presentations which you have made today. We assure you they will be considered.

REV. MR. POULTON: We want to thank you, ladies and gentlemen, for your kindness in hearing us at such length.

The PRESIDING CHAIRMAN: The next meeting is tomorrow afternoon at four o'clock. Mr. Common is coming before us again to speak on lotteries.





## EVIDENCE

TUESDAY, March 31, 1954,  
4.00 p.m.

The PRESIDING CHAIRMAN (Mr. BROWN, *Essex West*): Ladies and gentlemen, if you will kindly come to order we will proceed with the business of the committee.

Today we have a witness who is no stranger to this committee in that he has appeared on two previous occasions, once when discussing the question of capital punishment, and again when discussing the question of corporal punishment. Today he is going to discuss the question of lotteries from the point of view of the Attorney-General's department of the Province of Ontario. We are honoured in having with us Mr. William B. Common, Q.C., director of public prosecutions, attorney-general's department of the province of Ontario. If it is your pleasure we will hear from Mr. Common at this time.

**Mr. W. B. Common, Q.C., Director of Public Prosecutions, Attorney General's Department, Province of Ontario, called:**

The WITNESS: Ladies and gentlemen, I think possibly it would be better if I dealt with the position of the offences of gaming, betting and lotteries as they appear in the present legislation. They are all grouped under offences against religion, morals, and public convenience. Now, whatever public convenience is I have yet to be instructed. I am not clear in my own mind what public convenience is in the legislative sense.

The lottery section appears as 236 of the Criminal Code, and it is interesting to note that lotteries are not classified at all under any offence against religion, morality or nuisance, but is thrown into the general classification of disorderly houses which, of course, it is not. So that, up to the present time the lottery section of the code is somewhat an orphan. I notice in the new code that they have properly classified and brought it under that part of the code dealing with gambling and betting offences.

I do not, of course, need to remind the members of this committee that the policy for creating the offence of conducting or participating in a lottery rests with the dominion government, and its enforcement is a matter of provincial concern.

The very nature of the offence itself indicates to me that the question is rather a social one than moral in character as a great cross section of the community do not regard the lottery sections of the code as they presently stand in the realm of criminal law. The fact that there is not general public support for the prohibition of lotteries in this country I think is reflected in the number of lotteries and raffles held by service clubs, some churches, charitable and philanthropic institutions, youth centres for swimming pools, labour unions for their work, all of which generally are undertakings with *prima facie* charitable or philanthropic characteristics. The fact that these organizations—I shall not say are permitted to operate—do operate, I think reflects the lack of public support for the law dealing with lotteries.

Now, while the policy for the enforcement of the provisions of the Criminal Code dealing with lotteries rest with the province, the enforcement does present some extremely difficult situations. As you all no doubt know, generally speaking the enforcement of the criminal law is a matter of local law enforcement, that is by the local municipal police forces where those forces are in existence.

With certain exceptions the Ontario provincial police do not ordinarily enforce the gambling sections of the Criminal Code. As I explained, I think, in my first appearance, the provincial police enforce the Criminal Code in those areas which have no local law enforcement agencies such as local municipal police forces. But, the activities of the Ontario provincial police in this particular sphere which is under discussion today are largely confined to gambling houses, betting houses, and even lotteries where there is a commercial aspect, and not for charitable or philanthropic purposes.

The Department of the Attorney General, through its various Crown attorneys in the various counties and districts, does not take action in regard to these philanthropic or charitable lotteries unless a specific complaint is made to the local Crown attorney who is the local representative of the attorney general in the local county or district. It frequently occurs that where information does reach the Crown attorney or law enforcement officers that a charitable or philanthropic raffle or lottery is to take place that a warning is given to those who are in charge of the undertaking that such an undertaking is contrary to the provisions of the Criminal Code, and that it would be quite desirable that that particular undertaking should be discontinued. I might say that where that does occur there has been complete cooperation by those in charge of the raffle or lottery and it has been discontinued.

It may seem rather strange in the administration of Criminal Law that that sort of practice has to be resorted to, but that again I think reflects the attitude of a large cross section of the public towards this so-called—I should not say so-called—this criminal offence, because it is a criminal offence. It also reflects complete ignorance on the part of the vast portion of the public that lotteries for charitable and philanthropic purposes, are in fact illegal because, speaking not only for myself but for others who are engaged in law enforcement, the letters and requests for permission to conduct this type of lottery are legion. The impression seems to be abroad that one simply has to write or phone in to the attorney general and merely state that they are going to run a charitable lottery and that the road is then clear. In a great number of instances they are completely aghast at the fact that running a lottery or raffle for very small amounts is in fact a criminal offence. The attitude and lack of information on the part of the public, I think, is very largely due to the fact that there are so many inconsistencies in the present law dealing with lotteries, gaming and betting, because it is somewhat difficult to deal with this question of lotteries in the abstract without wandering to some extent by necessity into the field of gaming and betting.

The present section of the code dealing with lotteries is section 236 and that section has, with very few exceptions, been in force since the codification of our present code in 1892. There have been one or two additions or changes to it, but generally speaking it is in the same form as it was when the code was first codified. Now, section 236 prohibits, for instance, the disposing of goods, wares and merchandise by any mode of chance where the competitor pays any money. For some reason parliament omitted the "money" from goods, wares and merchandise, and some of you may recall that last year the officers of the law in this city prosecuted I think the Ottawa Baseball Club for giving away, I think, a sack of silver at one of the baseball games, and the



court of appeal held that as money was given away it did not come under that particular clause. Had the Ottawa Baseball Club or any other club so engaged been charged under another section, the result might have been somewhat different.

Now, one finds that there is that inconsistency. You find an offence charged under the lottery section of the code, where, for instance in the illustration I have just given you, it might not have been an offence under section 236 but it may be an offence of keeping a common betting or gambling house. What is an offence under one section is not necessarily an offence under another section. Where you are dealing with chance and mixed chance and skill, the result is confusing. For instance, you have the exemptions where you are dealing with small raffles at churches or social bazaars where the article in question does not exceed \$50 in value, permission having been obtained from the mayor of the municipality, and where there is a further condition that the article first has to have been offered for sale.

Now, the great difficulty, of course, is almost apparent and the inconsistencies are likewise. I might point out the penalty provided by parliament for anyone who contravenes this section is either two years in jail or \$2,000 fine or both. One can easily see the ridiculous result that some times might flow. The ladies aid of the church may have a quilt which might conceivably be worth \$51.00 and, even if they have the consent of the mayor, if it is raffled the person may be liable to two years in jail; but, on the other hand, if the quilt is not worth \$50.00 that person is not liable to these penalties I have mentioned if consent is obtained.

It is difficult to explain to a member of the public the reason for the arbitrary determination of the \$50 and these other conditions that parliament has imposed. In Ontario, as a lot of you know, the mayor is the chairman of the local board of police commissioners. And, I can well imagine that in a great number of cases the mayor is asked under this section for permission. Whether or not such permission is granted I am not in a position to say, but I imagine one can hazard the opinion that the head of a municipality is not going to be inquisitive as to whether the value of the quilt is \$49.50 or whether it has been offered for sale or not. These are small matters, but they indicate the complete inconsistency of the existing law. Where you have the federal law providing that consent should be given by the head of the municipality who is also head of the police commission you see a possible conflict of duty that might arise in certain instances.

Now, to take the question of agricultural fairs. Those who have attended the Ottawa Exhibition, and more so the Toronto Exhibition, have seen gaming and lotteries operated on an extremely highly commercial basis, all within the law. There is no limit whatever to the amount that might be hazarded on lotteries or gaming. They are completely excepted, and they are big commercial ventures. Now, one may speculate as to whether the framers of this particular section ever intended that a special carte blanche should be given to a person for personal profit to operate under the protection of the law. The anomalous position of this is you can go into an agricultural fair like the Toronto exhibition and hazard \$100 in 5 and 10 cent pieces on any game of chance, but step outside the gate and buy a 25 cent ticket on a charitable raffle and you have broken the law. The law seems to be very hard to explain and it is very difficult for the average member of the public to appreciate why this type of legislation is allowed to stand.

In addition to the inconsistencies which I have just dealt with there is another illustration. It is the pari-mutuel betting, which is probably outside the scope of this committee, but if one has money one can buy I don't know how many \$50 tickets on a horse race which is permitted, but again if he steps outside

the gate and buys a 25 cent ticket on a raffle for a motor car sponsored for the benefit of cerebral palsy patients, or something like that, he is liable to the penalties provided by the Criminal Code. I mention that as another illustration of the result which ensues from strict interpretation of the law.

Reverting to the question of concessionaires in a place like the Toronto exhibition which is exempted under the provisions of section 236, if those people operating those concessions operate them one day after the fair in the same place they would be committing an offence. The concessions are legal for the duration of the fair, but if they went five minutes over it, they would be in fact committing an offence.

As I said before, the inconsistencies are not only found in the exact sections of the code itself, but judicial interpretation of the meaning of these sections and their inter-relation one with the other, that is gaming on the one hand and lotteries on the other, is at a variance. For instance the court of appeal in our province has held that while the exemption for agricultural fairs appears in the lottery sections of the code, they have held it extends to bingos, that is, bingo is gaming. The exemption for agricultural fairs is found in the lottery section, but our court of appeal has interpreted the gaming section to apply to section 236 which exempts the operation of gaming for prizes where it is conducted at an agricultural fair. I merely mention that in passing to show again the great difficulties that beset the law enforcement officers in dealing with this matter and, to a greater extent, the difficulty which the public experience in appreciating why certain things are allowed under certain conditions and prohibited under others.

Now, I did not want to get into the question of radio, and I am not in a position to say, and I am not going to even hazard an opinion, as to the legality or otherwise of competitions which are on radio. I merely mention that in passing to indicate that people listening to these radio competitions are, I think, lulled into a sense of security that this gaining something for nothing must be legal. I use all these illustrations merely to indicate how difficult it is for the public to appreciate the vagaries of the lottery and gaming sections of the code which is reflected again in the attitude of the law enforcement officers in enforcing the provisions of those particular sections.

Then, the question has been raised of these raffles and lotteries being operated for charitable purposes by professional promoters. Probably this holds for all the provinces, but certainly I do not know of any—there may have been cases—but I certainly have heard of none in Ontario where there have been professional operators undertaking to raise money for charitable and philanthropic purposes.

Now, I notice that when Mr. Wismer was here—I read his evidence which he gave when he appeared on behalf of the Trades and Labour Congress of Canada—he stated that they were in favour of government sponsored lotteries in Canada. I was not quite clear from his evidence exactly what he meant. He talked of the fact that the consolidated revenue fund should benefit to some extent from it, but he just made, as I understand it, the bald statement that that particular organization was in favour of government sponsored sweepstakes or lotteries in this country. I feel that that should not be allowed, and I am expressing my own personal opinion on that. The results in other countries as far as I have been able to ascertain, such as France, Brazil, and Mexico, etc., have not measured up to the expectations of those who advocated them, and the net result to the treasury has been exceedingly small, and the public has adopted a very apathetic attitude toward their operation. I was particularly interested in Mr. Wismer's suggestion that the attorney general of the province might issue permits or licences. I can say that that would be most unacceptable certainly to the province of Ontario, because one only needs to speculate and



cogitate to a small degree to ascertain what would be the result. There are too many laws in existence now where the consent of the attorney general has to be obtained before a prosecution is launched, and I think the attorney general of any province—I am speaking of my own particular province at the moment—would be put in the most invidious position if he had to determine what particular organization was deserving of a licence to operate a charitable or philanthropic lottery within the province. He would be subject to pressure groups, and he would have the supervision of the conduct of the lottery, the supervision of the custody of the trust funds, and the usual headaches, that go with matters of this sort would be so great that it would be unacceptable. In addition to that I venture to say that a very large provincial department would have to be established to supervise and control a rigid supervision of an operation of that type. The province of Manitoba might agree to licence, Ontario not, and so on, and you would have an inequality in the administration of the criminal law. By that I mean this. The underlying principle of criminal law should be its general application. It should have a general application throughout Canada and not be in force in one province and not in force in another. As long as parliament has created this type of offence as a crime it should be in no different position than the other crimes set out in the Criminal Code so far as the laws of general application are concerned. I must take a very decided objection to Mr. Wismer's suggestion that the attorney general of the various provinces have the right to licence.

When the discussion in the committee got on to the question of taxation, and that the proceeds of these lotteries would alleviate taxation, and go into the consolidated revenue fund, and so on, I think Mr. Lusby of this committee asked the question, as I understood it: "Should not these lotteries be extended to all levels of government from the federal and provincial down?" That, I think, does create the precise question I have dealt with that some municipalities would adopt it and others not, and you would have a complete lack of uniformity throughout the country in the administration of a particular criminal offence, which in my respectful submission and opinion is wholly undesirable.

Again, I am not a political economist or anything of that sort, but I think that the question of national sweepstakes is completely unsound for taxation purposes. It is an undignified way, in my opinion, of raising revenues, and I am sure that the Minister of Finance could not be assured of any exact sum of money in any year due to the experience in the past of other countries and, at the expense of repetition, I hazard the opinion that the public would become apathetic to this type of money raising scheme eventually.

I am sure that I have said all I can on this subject. It is rather difficult to put these matters in other than disjointed form, but I think I have done all I can.

**THE PRESIDING CHAIRMAN:** Thank you very much, Mr. Common.

Before proceeding with interrogation, I overlooked the fact that the minister is not here today and had asked me to express his regret due to the fact that the Criminal Code may be before the House of Commons today for discussion, and we hope adoption. He has asked me to express his regrets that he is not here.

**Hon. Mr. ASELTINE:** I wonder if the witness would care to make any suggestions as to what amendments he thinks should be made?

**THE PRESIDING CHAIRMAN:** Senator Aseltine, you might ask that question when your turn comes.

**Hon. Mr. ASELTINE:** Perhaps he could think that over in the meantime.

**THE PRESIDING CHAIRMAN:** Could we start the interrogation at the left end of the table?

Mr. BLAIR: Mr. Chairman, if it is in order, it occurs to me that it might help the committee if Mr. Common were asked to comment upon the testimony given by Mr. Maloney. You will remember that Mr. Maloney made some comments on Mr. Common's testimony as to the conduct of prosecutions, particularly in capital cases. I do not want to suggest anything that might be out of order, but perhaps this will be Mr. Common's last appearance before the committee, and he might wish to express an opinion.

The PRESIDING CHAIRMAN: In other words, you would like to revert to the question of capital punishment to let Mr. Common reply to what Mr. Maloney has said.

Mr. SHAW: Would it not be better first to deal with the matter of lotteries. I believe that that probably should be done, but I do believe also that we should deal with this question of lotteries first, and then move on to the other matter.

The PRESIDING CHAIRMAN: Is that agreeable to the committee?

Agreed.

*By Hon. Mr. McDonald:*

Q. Mr. Common, could the province pass an Act giving the attorney general authority to prohibit lotteries?—A. No, I do not think so. The exemptions are provided for in the code now and there is no power in the province at all.

Q. Could they not secure authority by passing a bill prohibiting lotteries at agricultural fairs?—A. No. It would have to come from parliament. Mind you, I presume that parliament could delegate to the attorney general some power to license or to permit, but I think that that would meet with complete disapproval of the provinces.

Hon. Mr. McDONALD: I do not think I have anything further to say. I was very interested in what Mr. Common had to say in his evidence regarding the licensing of lotteries.

*By Mr. Shaw:*

Q. First of all, I would like to thank Mr. Common for writing to me in response to a question asked by me. You referred to carnivals and concessionaires at fairs and exhibitions. I do not have a copy of the code before me. Would you mind reading that subsection?

Mr. BLAIR: It is a proviso to subsection 1 of section 236. It says:

Provided that the provisions of paragraphs (d) and (e) of this subsection in so far as they do not relate to any dice game, shell game, punch board or coin table, shall not apply to any agricultural fair or exhibition, or to any operator of a concession leased by any agricultural fair or exhibition board within its own grounds and operated during the period of the annual fair held on such grounds.

*By Mr. Shaw:*

Q. For my information, would you indicate what action may be taken by the police to ascertain the honesty or otherwise of the operation of these various games which are to be carried on at exhibitions and so on?—A. I can only answer that by this—and I can only speak for the Toronto exhibition which is probably the largest of its kind in the world. Certainly in the last 15 or 20 years to my knowledge, I think there was only one occasion where a game was closed up on account of dishonesty. I am not quite sure of this, but I think the police commission or the exhibition authorities investigate every type of game before the concession is granted. I might say this, that the two large concessioners at the Toronto exhibition are Beasely and Conklin shows, both of whom have enviable reputations for conducting business on a very



high level. There has never been any complaint about their games. They police their own business very effectively and I can only recall one occasion, and I do not think it was either of those companies, when a game was completely dishonest and it was closed up very quickly.

Q. There are, we know, certain less reputable concerns than those you mentioned. I think there was a case in Alberta where there was a riot when it became obvious that the games were crooked.—A. Yes.

Q. You referred to Mr. Wismer's evidence with respect to granting authority to the attorneys general to grant permission for the operation of certain lotteries, and you said that the law should be a law of general application in order to be a very good law. Do you feel, Mr. Common, that today the law of general application does apply with respect to the Criminal Code as it stands today?—A. Do you mean the whole code?

Q. In relation to lotteries and games?—A. No, I must concede that it does not. I think I explained that—again at the expense of repetition—by the fact that there was no general public support for the prohibition of the small innocuous type of raffle and lottery.

Mr. SHAW: Thank you.

*By Hon. Mr. Aseltine:*

Q. Mr. Chairman, I would like to say that on quite a number of occasions I have had to advise on these sections we are dealing with now and, of course, ran into difficulties immediately because in spite of my advice people would insist that someone else had conducted a scheme and no charge was laid and they could not see any reason why they could not do the same thing. I had a great deal of difficulty explaining to them that they were possibly making themselves liable. It occurs to me that perhaps some amendments to these sections could be drafted which would clear up this matter and make it more understandable to the public at large. Perhaps the witness here today has something to suggest along those lines?—A. I have no suggestion because that is a matter of complete governmental policy as far as the dominion government is concerned.

Q. I do not see why. Your suggestions might be of great help?—A. Well, frankly I have not given the required thought to any suggested changes that might be made. The first thing that comes to the average person's mind, I suppose, would be stricter law enforcement.

Q. The trouble in our district in Saskatchewan is that the law is not enforced, only here and there, and sometimes pretty far apart.—A. I think that your experience in Saskatchewan is probably the same as in other parts of the country. I do not know of any province which rigidly enforces the lottery sections of the code. There might be some that do it, but from what I understand the situation is a general one that there is a reluctance to enforce the provisions of section 236 where it affects lotteries or raffles for charitable and philanthropic purposes.

Q. It all depends upon the local attorney general's department pretty well.—A. I would not lay the omission at his door particularly. It rests with the local law enforcement agency, which is the municipal police force.

Q. We are policed by the R.C.M.P. who take their instructions quite frequently from the attorney general.—A. The situation there is different from Ontario and Quebec. There are provincial police forces in both Ontario and Quebec.

Q. Even locally we are policed by the R.C.M.P.—A. Yes. I would ask to be excused from making any suggestions as to the amendments at this stage which might be put in.

Q. I did not see any harm in asking you.—A. If we can at any time be of any assistance to the federal authorities we will be glad to oblige.

*By Hon. Mrs. Hodges:*

Q. I noticed in the Ottawa Journal the other day the story of a woman winning a car at a bingo, and in addition to that there were television sets, and things like that. Where would that come in in the Criminal Code?—

A. Under section 226. It was at a bingo game was it?

Q. Yes, of the Lions Club.—A. That would be under section 226, that is the gaming house section. Bingo is classified as gaming.

Q. There is no limit of \$50?—A. No. The gaming section is 226. That is the disorderly house section that says a common gaming house is a house or premises kept for games of chance. This section reads as follows; and I am transposing: where the premises are occasionally being used by charitable or religious organizations for playing games where a direct fee is charged to the players and if the proceeds are to be used for any charitable or religious purpose. That comes in in section 226, paragraph (b), clause (ii). That was amended in 1938.

Q. I would like to ask you another question: in view of all the irrelevancies of the Criminal Code concerning lotteries, gaming and that sort of thing, do you think that it would result in a greater respect for law enforcement if some of these clauses were revised and changed in the light of modern developments? For instance, does it seem to you fair that a strictly commercial gambling concession such as at the Toronto exhibition should be allowed to go scot free and at the same time the same law says that a church bazaar cannot be held.—

A. No. It goes back to what I previously said that the Criminal law should have general application. It seems manifestly unfair to a charitable organization who cannot operate, say, for two weeks in raising money, when a person in the commercial business of operating lotteries and gaming at agricultural Fairs can do the same thing within the two weeks at the Toronto exhibition.

Q. Do you think that if some of these irrelevancies were removed that it would result in greater respect for the law?—A. Yes, I do most assuredly. I think that the attitude of the public and the position taken by law enforcement officers today is a direct result of these inconsistencies I have mentioned.

THE PRESIDING CHAIRMAN: The committee will take a short recess. (On Resuming)

THE PRESIDING CHAIRMAN: We will now resume.

*By Hon. Mrs. Hodges:*

Q. May I ask Mr. Common how do you define occasional in the use of, for instance, occasional bingos?—A. The word "occasional" is referred to in section 226 and has reference, not to whether the game is played occasionally but whether the premises are used occasionally for that game. The word "occasionally" in that aspect of the matter has not yet been judicially determined. There was a case which, again, came from Ottawa where one of the service clubs, 5 or 6 years ago, had a bingo and door prize all for charitable purposes, as I recall it. I argued the case in the court of appeal. I do not remember the details exactly, but I think this game took place in different parts of Ottawa once a week or once a month, and the court of appeal properly held that the particular premises where the game was being played were occasionally being used for bingo, and there was no offence.

Q. The same people could play a bingo game six nights a week at different places?—A. Yes. The way the statute is worded it would be occasionally. It would be a travelling game. That again shows the peculiarity of the law.

MR. BLAIR: Do you not think that some people believe the word "occasionally" refers, not to the premises, but the lessee or occupier of the premises? Here in Ottawa they have a bingo game at the auditorium once a week, but each week it is by a different sponsor. Each service club will operate a bingo



in the Ottawa auditorium once every 4 or 5 weeks. I was wondering whether the words "occasionally" referred to the lessee or occupier of the premises rather than the premises themselves?

The WITNESS: It is synonymous, I think.

Hon. Mrs. HODGES: If two lawyers, do not agree, how do you expect the public to?

*By Mrs. Shipley:*

Q. Is there a permit necessary?—A. No.

Q. It is the building?—A. It is the premises; not the operator but the premises. It is the disorderly house section. That is the section under which the bingo comes and it is excepted if the game is occasionally played on those premises.

*By Mr. Cameron (High Park):*

Q. There is a condition too, is there not, that the proceeds of these occasional affairs are to be used for the benefit of a charitable or religious object. Suppose the hall was being used occasionally but not for a charitable or religious purpose, who would be responsible in law?—A. The occupier or owner of the building would be liable under one section for permitting it, and the person conducting it could be charged with keeping a common gaming house under those sections.

*By Hon. Mr. Roebuck:*

Q. I heard only a portion of Mr. Common's address, and would like to commend him very highly on what I have heard. Might it not be summed up in this way: if we abolished all exceptions that do not apply to everybody, so that you do not make flesh of one and fish of the other, we would improve the Act and make it more enforceable?—A. From a matter of law enforcement it would be desirable, but I think you would find a lot of resistance on the part of some of the bodies like service clubs. There would be an objection on their part.

Hon. Mr. HAYDEN: It would not improve the temper of the people?

The WITNESS: No.

*By Hon. Mr. Roebuck:*

Q. If there are any exceptions they should apply to everybody.—A. Oh, yes. I agree with you.

Q. If we abolished the exceptions that make flesh of one and fish of the other, where one can do it and another may get caught, we would simplify the law and make it more enforceable?—A. Yes.

Hon. Mr. ROEBUCK: I was not defining what the exceptions might be.

*By the Presiding Chairman:*

Q. When is a lottery a commercial lottery?—A. One operated for private gain.

Q. Are there not a great deal of the proceeds of all these charitable operations go to the management of the halls where they hold the charitable drawing?—A. That is necessary overhead, I think, like advertising.

Q. They get a certain percentage, I think.—A. No. I think it is a fixed fee. I have never conducted one of these things. But, I would think that ordinarily the premises are rented at a fixed figure, and that the particular club or organization bears the cost of the overhead which is taken out of the proceeds, the overhead such as the printing of tickets and so on.

Q. And if they have a draw for a car, for example, a percentage of the proceeds from the tickets goes to the seller of those tickets?—A. I do not know.

Mr. DUPUIS: In some cases amusement or show companies retain a certain percentage for operating a particular draw or gaming affair.

Hon. Mrs. HODGES: That is commercialism.

Mr. DUPUIS: The net results would be for a charitable purpose. They would be charging a certain percentage for operating that particular game or draw.

The PRESIDING CHAIRMAN: Probably the sin is committed in the name of charity.

Mr. DUPUIS: I know that in our parish we had a big bazaar and had given the management of the whole bazaar to a certain amusement firm who was retaining 40 per cent. We gave 60 per cent to the charitable organization sponsoring the bazaar.

Hon. Mr. ROEBUCK: It was suggested that we allow the small people to carry on the little bingos and little card games and that sort of thing because of public opinion. I had that whole law on my desk during the time I was attorney general, and that was the principle followed. When things were little and not doing much damage they were left alone by the provincial police, and then that practically always grew to big proportions.

Hon. Mr. HAYDEN: How did you know where to draw the line?

Hon. Mr. ROEBUCK: There was no line. You used your judgment. I remember an instance where some little affair had been going on for two or three years and the police winked at it, and then all of a sudden the people hired a hall in a big building and then started running the thing from coast to coast, and we squashed them. You will find that that is the difficulty. If you allow the small man to operate a small game, it soon develops into a big game throughout the community. That was my experience in enforcing the Act.

Hon. Mr. HAYDEN: That is a dangerous principle; that you are going to prohibit because of abuse?

Hon. Mrs. HODGES: A good many things would be prohibited on that principle.

Hon. Mr. ROEBUCK: I said that we did not squash it and then it always grew up to a point where it had to be squashed.

The PRESIDING CHAIRMAN: Then it was wrong in the first instance.

Hon. Mr. ROEBUCK: This whole Act is an exceedingly difficult thing to handle because of the privilege to some and the prohibition against others. The tenor of my remark was that you cannot allow it because it is small, because as soon as you do it grows into something big. You have got to prohibit it as a matter of principle and not as to size. It is not a good principle to allow it to proceed because it is small and innocuous and then prohibit it because it is big and starts to do more damage. You get into a lot of trouble making the laws that way.

The CHAIRMAN: No, Mr. Valois.

Mr. VALOIS: I have just one question, Mr. Common. Suppose a chap in Toronto holds a ticket on the Irish Sweepstakes and happens to win a prize. He cashes the check. Is there any interference with him by the provincial authorities?

The WITNESS: No, there is not. There used to be a provision in the code whereby money which was won on a sweepstake could be recovered at the suit of the Attorney General or of any citizen; but that provision was repealed 10 or 15 years ago.



*By Hon. Mrs. Hodges:*

Q. Well, we had a similar case in British Columbia more recently than that.—A. You may have local legislation out there which covered it.

Q. I think we are perhaps better people.

The PRESIDING CHAIRMAN: There is no question about that.

Hon. Mr. ROEBUCK: I remember a case of that kind and we decided that we would not do anything about it, that we would not interfere.

The WITNESS: There was a section in the code, but whether it was constitutional or not, I do not know. In any event it was repealed and some of the provinces, I believe, by means of provincial legislation provided for a right of action for the recovery of money won at a sweepstake. I think that legislation would be *intra vires*.

Hon. Mrs. HODGES: On two occasions enforcement was taken.

The WITNESS: If a husband won the money then the wife or friend immediately issued a writ and thereby recovered the money and protected the winnings for the family.

Mr. BLAIR: I think the section was repealed in 1934.

Mr. VALOIS: Is it legal.

The WITNESS: There is a provision in the Criminal Code under section 236, which makes it an offence to purchase a lottery ticket. I am not expressing any legal opinion about it but I think that refers to a sweepstake conducted in Canada.

Hon. Mrs. HODGES: A lot of people have been convicted on betting offences for being in possession of a lottery ticket on the Irish sweepstakes.

The WITNESS: They have been prosecuted for conducting a lottery.

Hon. Mr. HAYDEN: No, for being "in possession."

Hon. Mrs. HODGES: We had a case in British Columbia just a few weeks ago, but the accused was in possession of a book of tickets.

*By Mr. Shaw:*

Q. Why issue books then, in the light of the explanation that has just been given? Suppose I have a book of tickets on the Irish Sweepstake and suppose I get caught with them. Will they prosecute me although I may buy every one of them myself.—A. The matter has not been judicially determined. Let me refer for a moment to section 236 of the Criminal Code. It reads as follows:

236. Lotteries. Every one is guilty of an indictable offence and liable to two years' imprisonment and to a fine not exceeding two thousand dollars, who—

(b) sells, barter, exchanges or otherwise disposes of, or causes or procures, or aids or assists in, the sale, barter, exchange, or other disposal of, or offer for sale, barter or exchange, any lot, card, ticket or other means or device for advancing, lending, giving, selling or otherwise disposing of any property, by lots, tickets or any mode of chance whatsoever; or, . . .

Q. Is the seller covered?—A. Yes, the seller is covered under subsection (b).

Q. If a man is found with a book of tickets in his possession, is he prosecuted as a buyer or as a seller?—A. I think it all depends on the facts.

Q. On what?—A. On the facts.

Q. Suppose I am caught with a book of Irish Sweepstake tickets?—A. Suppose you say that you paid for them?

Q. They are not filled-out at all; I just have a book of these things in my pocket, and the R.C.M.P. apprehend me. Then what?—A. I think you would be charged with receiving. Whoever buys tickets or any such lotteries I think would be charged with receiving the tickets.

Hon. Mrs. HODGES: Is there not an offence of being in possession?

The WITNESS: No.

*By Mr. Shaw:*

Q. I think it would make an interesting court case.—A. I do not want to give a legal opinion on it, but my impression is that if a person had a book of Irish Sweepstake tickets in his possession, it would be almost impossible for the Crown to succeed in a prosecution because it would have to summon witnesses from Ireland to prove the existence of the sweepstake, and it would be most expensive and almost impossible to prove.

Q. You say that unless someone gave evidence to the facts they would not prosecute under that section of the Act whereby a poor man might have a \$25 penalty imposed on him because "it was not worth it". I wonder who it was that we asked if there had been any prosecutions and the answer was "no".

Mrs. SHIPLEY: I think he said that since he had won \$100 out of it, he could well afford to pay the \$25 fine.

Mr. SHAW: No. This was a person who bought a ticket and said he would be liable to pay a fine of \$25; and whoever we asked that question said there had been no prosecution because it was not worth it.

The PRESIDING CHAIRMAN: I think it was the social council.

Mr. SHAW: It was somebody who had authority.

The PRESIDING CHAIRMAN: I think it was the social council. However, I do not think we should get into a discussion among ourselves when we have a witness before us to testify.

*By Mr. Valois:*

Q. I had no intention of starting a legal argument, but I wanted to get your opinion. Do you think it would help the enforcement of the gambling law which we have right now if a lot of publicity got out to this effect: "You can buy a ticket on the Irish Sweepstakes and win a very nice or big sum of money?" Do you think it would help to make the enforcement of our laws easy?—A. I can only answer by saying, as I understand your question: Should we prosecute in Irish Sweepstake cases?

Q. I wonder if you would offer an opinion on that whether, on the way things are going now, it does not hinder law enforcement.—A. No, it does not. You are speaking now of Irish Sweepstake tickets, are you not?

Q. That is what you see happening every day, is it not?—A. Yes.

Q. In Montreal or in any part of Canada?—A. Yes.

Q. People buying tickets and collecting a big winning, yet nothing is done about it? Do you think that helps?—A. No, I do not think it helps the over-all situation at all. I must concede that. It is again evidence of the lack of public support of this type of offence; and the difficulties, of course, when you are dealing with a foreign sweepstake, are much more than when you are dealing with a domestic sweepstake because you can prove a domestic sweepstake, when it may be almost or entirely impossible to prove the existence of foreign sweepstake.

Mr. DUPUIS: I have conversed with several citizens who are in favour of such lotteries, and one of the arguments advanced is this: We can buy them from other countries, and all that money is going out of the country, so why



should not we get them here? And then I have explained to them the arguments against it which have been advanced in evidence here. It seems to me, according to what you have said today, that we are not too successful. But these people usually come back with the statement that: In New Zealand and in Australia where they have had such lotteries, there has been no counterfeiting and it has worked out well and the majority of the money raised is directed towards charitable purposes. Have you any knowledge of the situation in Australia or New Zealand in that respect?

The WITNESS: No. But I have been informed that in France, Brazil and Mexico the net return to the national treasury has been remarkably low.

Hon. Mr. ROEBUCK: I have had the same information with respect to Australia and New Zealand.

The WITNESS: In so far as the countries I mentioned are concerned, I think the result has been very disappointing in the net result to the national treasury.

Hon. Mrs. HODGES: I have a report which says that in the state lottery in Australia about 33 per cent of the gross returns went to the hospitals or charitable funds and the state had an amount of a little over £ 2 million which seems very small.

The WITNESS: I think that in France the return is much lower than that.

Mrs. SHIPLEY: I am glad to have that information. Thank you.

*By Hon. Mr. Hayden:*

Q. As I understand it, you are against lotteries either state operated or when operated by private sponsorship, even though they are restricted to charitable purposes? Is that right?—A. I do not endorse state lotteries or national sweepstakes. And in addition I object to private commercial firms sponsoring lotteries for charitable purposes on account of the large percentage which has to be turned to the sponsors of the fund, which might otherwise go to the charity itself if the funds were raised by voluntary giving.

Q. That is to say, you are opposed to the sponsorship of lotteries by the state, or national sponsorship, and you are also opposed to private commercial sponsorship. But suppose lotteries were permissible for specific charitable purposes and suppose that the charity itself provided the organization, would you still have an objection?—A. Not for that charitable object, no; no I would not.

Q. And your criticism of private commercial sponsorship is on the basis that not enough of the money is turned over to the charitable purposes?—A. Yes.

Q. Is that not then a matter of administration which could be controlled as it is in England in connection with whatever betting is permitted there, where they look after the business of betting and permit betting on credit, and apply practical accounting methods and have accounting investigators to check the charges which are made.—A. As I read the report of the British Royal Commission on Betting, I think one of the objections which the commissioners took was this: That actually they could not find out the amount that these people had because their books were not available for inspection. I think we might experience the same difficulty in obtaining accurate results from the operators.

Q. Now, in respect to the report of the Royal Commission and having regard to the extent that betting is permitted, and having regard to the fact that betting by credit is permitted and under arrangements where they send a telegram while the person placing the bet is not physically present at all, they do have a very strict audit, do they not?—A. That is right.

Q. And they do get all those records?—A. Not all of them; they do get some.

Q. But where you do not get them, you can put the man out of business?—A. If you have the sanctions with which to do it, then of course you can do it.

Q. They are not officials.—A. They are not officials.

*By Mr. Shaw:*

Q. Yesterday, during the last sitting, Mr. Blair, our committee counsel, made reference to that section of the Code under which the purchaser of a lottery ticket is guilty of a summary offence and can be fined \$25, and he expressed the view: "I am afraid it is not worth while to prosecute such a person." I thought it was a witness who gave that information and I am sorry if I gave you the wrong impression. I want to ask Mr. Common this question—and I am honestly seeking information. Under what authority would the Royal Canadian Mounted Police seize their sweepstakes tickets or any such tickets?—A. They would have authority. What I am saying is subject to some judicial body saying that the Code would apply to foreign sweepstakes. Under the search warrant section of the Code, they would have authority to seize. May I put it this way: If it was the army and navy sweepstakes in Canada, they would have the right to apply to a justice for a search warrant. Under that search warrant they could enter and seize, and any tickets that they seize would, on the oath of the man swearing the information for the search warrant, be evidence that would be required to further the prosecution. Now, in the case of the R.C.M.P., when they seize Irish sweepstakes tickets, I presume it is done on the assumption that the Irish sweepstake comes within the provision of section 236. I am not prepared to give a legal opinion as to whether it does or not.

Q. You are not aware of cases where they have been seized?—A. I have never been aware in Ontario of cases where legitimate Irish sweepstake tickets have been seized under search warrant. There was a case in Ontario where a great number of counterfeit Irish sweepstake tickets were seized, but the charge, of course, was not laid under the lottery section but under the false pretenses section.

Q. They seized a cake, according to the press, in which these tickets were hidden.

Hon. Mrs. HODGES: What a clever idea!

Mr. SHAW: I do not know whether the R.C.M.P. thinks it is necessary to have—

Hon. Mr. VENIOT: It was the Ottawa police.

*By Mr. Shaw:*

Q. Would they be operating under the local governing body here?—A. No, they would not be acting under our instructions. They would be acting under their own initiative. You have reference to the Irish sweepstake. There have been seizures from time to time in the city of Ottawa from the Canadian Pacific Express and the Canadian National Express, and they have acted under search warrants. They have seized money and stubs. Whether charges have been laid, I do not know. I should say that I do know that charges have not been laid because apparently they cannot find a person to charge within the jurisdiction.

Q. I just want to see how good it may be.—A. There are rights of seizure. The right to seize does not necessarily come under the lotteries section. It comes under the general power to seize for evidence in criminal prosecutions.

Mr. BLAIR: Yesterday, when the Christian Social Council was here, it was suggested by their witness that the law was capable of enforcement if the enforcement authorities would enforce it.

The WITNESS: Of course, every law is capable of enforcement. I must concede that.

Hon. Mr. ROEBUCK: Almost none is capable of 100 per cent enforcement.

The WITNESS: Yes, true. Where you have a criminal offence or an offence which is not considered as such by the entire community, and where you have



different levels of law enforcement agencies, you will not get that 100 per cent enforcement that you would in the case of a burglary, bank robbery or murder, because public opinion is behind those sections, but it is not 100 per cent behind the gaming and lottery sections of the Code. It is regarded not as a moral or criminal question but rather as a social question.

*By Mr. Blair:*

Q. You said that you did not want to make any specific recommendations, but I gather that you feel that what might be called medium-sized lotteries are capable of some regulation. Would you think that perhaps one solution to this problem might be to lift the present \$50 exemption in the Code and extend the area of its operation?—A. I do. I do not know why that exemption is confined to churches and bazaars and a limit put on the article to be raffled. It seems to me that we are back in the horse and buggy days. If we are to have exceptions at all, and this is a very confined type of exception, it should be extended if parliament desires to permit that sort of thing.

Q. Do you think that if such an exemption were made it would assist the enforcement authorities in limiting large and illegal lotteries, such as the sale of Irish sweepstake tickets?—A. Would you repeat that?

Q. If such an exemption were put into the Code allowing medium-sized raffles and lotteries, would it assist enforcement authorities in preventing the sale of large sweepstake tickets?—A. I do not think so. I do not think it would have any relation to it at all.

Q. Would you think it would be a good idea to eliminate altogether the exemption based upon the fiction of an agricultural fair?—A. No, I do not think it would assist the situation, because people go to these fairs in a carnival mood and they expect to have a fling. I would be the last person in the world to prevent those people from having their bit of fun or even to make a scintilla of a suggestion prohibiting it.—A. I made mention of the question of agricultural fairs, to bring attention to the extent to which this thing has grown and is protected by the law. Whether parliament in 1892 had that in mind, I do not know, but I hazard the guess that in 1892 we did not have monster bingos, etc. in midways like we have today.

*By Hon. Mrs. Hodges:*

Q. Would it help if the law defined when an agricultural fair is an agricultural fair and when it ceases to be an agricultural fair and becomes an exhibition?—A. Anything like the Toronto exhibition would be extremely difficult to define.

Q. That is an agricultural fair in the sense of a fair?—A. Yes. A large part of the Toronto exhibition is devoted entirely to agriculture.

Q. But that is my point, as to whether it should be entirely an agricultural fair.—A. As we all know, when people go to these little town fairs and county fairs throughout Canada they expect to see a wheel of fortune, they expect to see a coconut shy—it is all part of the carnival spirit—and I am sure none of the members of this committee would like to deny a private citizen of the pleasures of a shooting gallery.

Hon. Mr. ROEBUCK: The pleasure of being fleeced?

The WITNESS: Yes.

*By Mr. Blair:*

Q. Mr. Common, you mentioned some of the present difficulties of interpretation, and you have given specific examples. One which has been commonly

mentioned is the so-called "games of chance and skill" section under which it apparently is illegal to dispose of a prize of goods by means of a contest, but it is perfectly legal to give away a large sum of money.—A. Under that subsection, yes.

Q. Are there any other anomalies of a similar character which you have observed in the operation of this section?—A. One I did not mention is the fact that you might be convicted for what might be perfectly allowable under the lotteries section but prohibited under the gaming section. Without taking the time of the committee, you may take my assurance that that is so. What is not an offence under the conducting of a lottery is an offence under the conducting of a common gaming house. That is one of the great anomalies and inconsistencies of the present law which is so hard for the public to understand.

Q. You would not like to see a system instituted whereby the conduct of lotteries would be licensed by provinces and municipalities?—A. No.

Q. You are of the opinion that, if proper exemptions were granted and specified in the Criminal Code, a system of law enforcement could be worked out more in accordance with what is happening at the moment?—A. And confined to charitable organizations.

Q. So you think that, with proper control, that would lead to exploitation of charitable and religious organizations for commercial purposes?—A. No, I do not think so.

Q. Mr. Common, earlier I mentioned Mr. Maloney's testimony. Would you like to offer any comments on that?—A. Yes, I would like to mention one thing on that. I noticed that Mr. Maloney, in giving his evidence before the committee on the 16th March, is described as the Chairman of the Committee on Criminal Justice of the Ontario Branch of the Canadian Bar Association. On reading his evidence, I take it that he was expressing his own personal views, not those of the Canadian Bar Association. As I read Mr. Maloney's evidence, I gained the impression that he was attacking the whole system of the administration of criminal justice in Canada, which, as you know, is based almost entirely on the British system of the administration of criminal justice, which has been there for years and has enjoyed a most enviable reputation throughout the entire world in regard to fairness, the existence of safeguards, and not only to justice but the appearance of justice. I was rather struck with the fact that, having regard to the criticism that Mr. Maloney made of the existing system, he did not offer particularly any worth while substitutes for the defects which he said do exist. He did say on one occasion that I was mistaken in my understanding of the situation when I stated on my first appearance before this committee that the accused was afforded every possible assistance and he was not taken by surprise, that the accused knew the Crown's case. He said that I was mistaken in that. He quoted, I think one case where that was not so, and he said that in view of my position I did not know what was being done by my subordinates and that in my present position I was unaware of what was taking place because I did not appear in the trial courts. I merely want to say that Mr. Maloney unquestionably had overlooked the fact that for some 10 or 15 years I did trial work exclusively. I had argued literally thousands of cases in the court of criminal appeal where I have had to read transcripts of evidence and not in one case, to my knowledge, have I ever been aware of the condition which Mr. Maloney alleges sometimes exist, that it is a contest between the Crown and the accused. The safeguard in that respect are apparent in that not only Crown counsel knows, or should know his job, but Mr. Maloney apparently overlooked the fact that experienced trial judges will not only frown on the practice, but would take very decided steps to see that the condition if it did exist would cease forthwith.



Now, in one case Mr. Maloney mentioned that the defence was taken by surprise, and I must concede that that was the case in one particular part of the evidence, but it was not deliberately done. It was an oversight in the Suchan and Jackson case. There was one piece of evidence which the defence did not know about, but I think the importance of that evidence can be judged by the fact that the court of appeal dismissed the appeal and leave to appeal to the Supreme Court of Canada on that and other points was refused.

I reiterate that the administration of criminal law in Canada is not a contest between the Crown and the accused. The Crown prosecutor is a quasi-judicial official fully aware of his position, and that statement of Mr. Maloney's is not, fortunately, borne out by the observations of other prominent defence counsel.

I think that is all I have to say.

The PRESIDING CHAIRMAN: Are there any further questions?

I wish to thank you, Mr. Common, for your very able presentation here today. On behalf of the committee and personally, I wish to tell you that we have appreciated your assistance not only on this occasion but on previous occasions.

The WITNESS: It has been a great pleasure, sir.

## APPENDIX

THE CHURCH OF ENGLAND IN CANADA  
THE DEPARTMENT OF CHRISTIAN SOCIAL SERVICE  
(The Council for Social Service)

February 24, 1954.

The Officers and Members of the Parliamentary  
Committee dealing with Public Lotteries,  
Parliament Buildings,  
Ottawa, Canada.

Right Honourable and Honourable Sirs:

## CONCERNING LOTTERIES

## I. ANGLICAN STATEMENTS

1. The Church of England in Canada through its General Synod which meets triennially, through the Executive Council which meets in interim years, and through the Council for Social Service, from time to time has made official representations to the Government of Canada regarding this matter. The church through its organized synods or councils is on record against any extension of the legalization of any forms of gambling in this country. The General Synod of the Church comprises all of the diocesan bishops, from Newfoundland to British Columbia, together with clergy and an equal number of the laity elected by those synods, in all upwards of some four hundred persons.

2. The following deliberate Resolution was passed in September last at the annual meeting of the executive council of General Synod in joint session with the Council for Social Service:

The Council has heard with uneasiness that in the revision of the criminal code the sections dealing with gambling are to be subject to re-examination by a special commission and urges that no lessening of the restrictions against gambling practices, including sweepstakes and lotteries, be made by the government or parliament and instructs the executive committee to make appropriate and strong representations to the Commission, when established, along the lines so frequently set forth by General Synod.

To indicate General Synod's attitude we quote a Resolution passed at its Triennial Session in 1949:

The General Synod of the Church of England in Canada has long recognized and deplored the evils of the gambling habit and today more than ever is concerned over its ever-tightening grip upon increasing numbers of our Canadian people:

The Synod reaffirms its stand against the use of gambling practices to raise money for any Church purposes, and once again urges the Federal Government to repeal the section of the Criminal Code permitting gambling and lotteries for religious and charitable purposes:



The Synod places itself on record as opposed to any extension of the privileges of gambling by amendments to the Criminal Code, or by the granting of licenses by Governmental Departments for any other fields of gambling.

That this resolution be communicated to both Federal and all Provincial authorities concerned together with explanatory covering letters.

3. To indicate other aspects of the matter, in 1948 the Executive Council of General Synod adopted the Resolution below and also drew attention to a Statement made by the Lambeth Conference of 1948, the Conference of the Bishops of the Anglican Communion throughout the world. We embody here that Resolution and that Statement:

That this Council for Social Service records its conviction that any relaxing of laws regarding gambling will not be in the best interests of the Canadian people, and deplores in particular current agitation to establish public sweepstakes and lotteries on behalf of government or of hospitals and other institutions; and

That this Council again affirms that the raising of funds for any Church purposes by any such methods should be discouraged and refused by parochial or other authorities.

Lambeth, 1948. 44. The Conference draws attention to the grave moral and social evils that have arisen in many lands through the prevalence of gambling on a vast scale. In view of these evils we urge that no Church organization should make money by gambling. We deprecate the raising of money by the State or by any organization through sweepstakes and similar methods, however good may be the object for which the money is raised; and we warn men and women of the danger of acquiring the habit of gambling, which has led in so many cases to the deterioration of character and the ruin of homes.

4. There is no need to set forth the many other resolutions or memorials dealing with other phases of the subject. Those given above are sufficient to indicate the constant attitude of the Church since popular agitations for further privileges of gambling have disturbed the public mind.

1. (a) To permit lotteries, whether under governmental control or permission or otherwise, offers another form of gambling.

(b) No mania spreads more quickly or naturally than the practice of gambling. Gambling creates gambling. It creates a fever which spreads.

(c) Gambling is a menace to the moral fibre of individuals and ultimately of the nation. The desire to get something for nothing is a denial of honesty and industry.

(d) Gambling ultimately contributes to the power of the underworld and to the grip which it exercises in any society. The experience of the United States is entirely relevant.

(e) Gambling is a denial of the rational use of money either in the world of production or of finance and investment.

2. Lotteries present no sound economic policy for the support of philanthropic institutions or movements. (a) Participation in them and the spreading of the method of lotteries has been proven to dry up the springs of goodwill giving. (b) They contribute to an irrational use of finance and investment. (c) They cannot contribute enough even to the hospitals of Canada alone, supposing that this be the only object of the proposed legislation.

Relevant figures to illustrate these principles will be presented to your committee in a brief by the Christian Social Council of Canada, which is fully endorsed by this Council of the Church of England in Canada.

3. Gambling in all its ramifications becomes a centre around which intemperance with its accompanying evils and prostitution flourish. This is the testimony of many, including a highly placed police officer in one of our great Canadian cities. Of the three evils gambling is the hardest to deal with. Lotteries will but contribute to this three-fold menace.

4. The extension of gambling to public lotteries permitted by the law will in no way make it easier for the law officers of the Crown and the police to enforce law, even the present law as it stands. This contention has been advanced by interests vested in gambling, and, unfortunately, at times by some authorities charged with enforcing the law.

To express it another way, it is a false contention that by extending the privileges of gambling we shall cure a moral disease in individuals and the body politic, and make the enforcement of law practicable.

Lotteries cannot help individuals or the nation to limit themselves to gambling as permitted by law. Such legalization will contribute to a spirit in them which will extend to further *illegal* gambling. Legalized betting as, for example, on the race tracks has never prevented the spread of illegal gambling.

5. Gambling is a denial of the principle of sacrificial giving by which throughout our history the Canadian people have been most generous supporters of philanthropic objects.

### III. RELIGIOUS SANCTIONS

Up to the point to which legislators are responsible, this Council contends that they should buttress the efforts of the religious forces in our country which see in gambling, and particularly in large-scale gambling, a menace to the spiritual and moral fibre of our Canadian people and an additional hazard to high character and stable family life.

### IV. CONCLUSION

These reasons and principles are set forth here in highly condensed form in order to assist more readily the officers and members of your Committee. They summarize the information given to the authorities of the Church of England in Canada and represent the Church's thinking on the subject. We trust that they will assist your Committee in reaching a sound opinion and decision to be presented to the Members of Parliament for their final consideration.

We are in full agreement with the Brief presented by The Christian Social Council of Canada, having been party to its preparation. We trust that the more detailed information in it will be considered carefully by your Committee.

The Church of England in Canada prays that its representations made over the years to successive Governments, will be given due consideration.

All of which is respectfully submitted,

ROBERT JEFFERSON,  
*Bishop of Ottawa, Chairman.*

W. W. JUDD,  
*General Secretary.*

















